

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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PACIFIC COAST STEAMSHIP COMPANY, a  
Corporation,

Appellant,

VS.

AXEL HOKANSON,

Appellee.

---

Apostles on Appeal.

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Upon Appeal from the United States District Court for  
the Northern District of California,  
First Division.

Filed

SEP 23 1916

F. D. Munckton,  
Clerk.



No. 2857

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**Circuit Court of Appeals**  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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*In the District Court of the United States, for the  
Northern District of California, First Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libellant,

vs.

THE PACIFIC COAST COMPANY, a Corpora-  
tion, and PACIFIC COAST STEAMSHIP  
COMPANY, a Corporation,

Respondents.

**Praeceptum for Apostles on Appeal.**

To the Clerk of the Above-entitled Court:

Please prepare transcript of record in this cause to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit upon the appeal heretofore perfected in this court and include in said transcript the following pleadings, proceedings and papers on file herein, to wit:

1. All those papers required by section 1, of paragraph I of Rule IV of the rules of admiralty of the United States Circuit Court of Appeals for the Ninth District;

2. All of the pleadings in said cause and the exhibits annexed thereto;

3. All the testimony and other proofs adduced in said cause including the testimony taken at the trial; all depositions taken by either party and admitted in evidence and all exhibits introduced by either party, the said exhibits to be sent up as original exhibits;

4. The opinion and decision of the Court; [1\*]
5. The final decree and notice of appeal;
6. The assignment of errors.

IRA A. CAMPBELL,

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondent and Appellant.

[Endorsed]: Filed Aug. 9, 1916. W. B. Maling,  
Clerk. By Thomas J. Franklin, Deputy Clerk. [2]

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No. 15,773.

AXEL HOKANSON,

Libellant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Statement of Clerk U. S. District Court.**

**PARTIES.**

Libellant: Axel Hokanson.

Respondents: Pacific Coast Company, a Corporation,  
and Pacific Coast Steamship Company, a Cor-  
poration. [3]

**PROCTORS**

for

Libellant: WILLIAM B. ACTON, Esquire, and  
Messrs. DENMAN & ARNOLD, San Francisco,  
California.

Respondents: IRA A. CAMPBELL, Esquire, and  
Messrs. McCUTCHEN, OLNEY & WILLARD,  
San Francisco, California.

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\*Page-number appearing at foot of page of original certified Apostles on Appeal.

PROCEEDINGS.

1915.

- January 27. Filed verified Libel, for personal injuries, in the sum of \$20,000.  
Issued Citation for the appearance of Pacific Coast Steamship Company, a corporation.
30. Filed Appearance of Pacific Coast Company, a Corporation.
- March 3. Filed Answers of Respondents.
- May 14. Filed Deposition of Jacob C. Gunderson, taken before Francis Krull, Esquire, U. S. Commissioner.  
Filed Deposition of S. A. Pettersen, taken before Francis Krull, Esq., U. S. Commissioner.
- June 18. Filed Deposition of Henry Anderson, taken before Francis Krull, Esq., U. S. Commissioner.  
Filed Deposition of C. J. Hannah, taken before Francis Krull, Esq., U. S. Commissioner. [4]
- September 11. Filed Deposition of C. L. Woods, taken before W. W. Washburn, Jr., Notary Public at Clallam County, Washington.  
Filed Deposition of P. I. Carter, taken before T. W. Holman, Notary Public, in and for the County of Jefferson, State of Washington.



22. This cause this day came on for hearing, in the District Court of the United States, for the Northern District of California, before the Honorable M. T. Dooling, Judge. After hearing duly had, the cause was submitted to the Court for decision.
- October 15. Filed one volume of Testimony, taken in open Court.
- 1916.
- June 5. Filed Opinion, in which it was ordered that a Decree be entered in favor of Libelant, in the sum of \$6,500.
10. Filed Final Decree.
30. Filed Stipulation and Order that Decree dated June 10th, 1916, be cancelled and stricken from the files.
- Filed Decree of Dismissal, as to Pacific Coast Company.
- Filed Final Decree, as to Pacific Coast Steamship Company (\$6,500 and interest).
- July 10. Filed Notice of Appeal. [5]
- July 10. Filed Cost and Supersedeas Bond, in the aggregate sum of \$8,250, with United States Fidelity and Guaranty Co. as surety.
- August 19. Filed Assignment of Errors. [6]



*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Libel.**

To the Honorable M. T. DOOLING, Judge of the  
District Court of the United States, for the  
Northern District of California:

The libel of Axel Hokanson against the Pacific  
Coast Company, a corporation, and the Pacific Coast  
Steamship Company, a corporation, in a cause of  
damage, civil and maritime, alleges as follows:

**I.**

That said respondent Pacific Coast Company is,  
and at all times herein mentioned was, a corporation  
organized and existing under and by virtue of the  
laws of the State of New Jersey, and engaged in the  
business of operating steamships between ports in  
the State of Washington, and ports in the State of  
California.

**II.**

That said respondent Pacific Coast Steamship  
Company is, and at each and all times herein men-

tioned was, a corporation organized and existing under and by virtue of the laws of the State of California, and engaged in operating steamships between ports in the State of Washington, and ports in the State of California. [7]

### III.

That heretofore, to wit, on or about December 10, 1913, at Seattle, Washington, libelant was hired and employed by said respondents to perform labor and services as a seaman for said respondents on the steamer "Senator," owned by said respondent Pacific Coast Company, and operated and controlled by said respondents; that on December 10, 1913, said steamer "Senator" left Victoria, British Columbia, on a voyage to the port of San Francisco; that pursuant to said employment libelant was on board said steamer "Senator," acting as a seaman; that the mainsail of said steamer "Senator" was up when the said steamer left Victoria; that there was no downhaul attached to said sail; that said steamer "Senator" was unseaworthy in that no downhaul was attached to said sail; that at about 3:25 P. M. o'clock in the afternoon of said December 10, 1913, when said steamer "Senator" was on the high seas off Cape Flattery, the boatswain of said steamer, who was an officer of and employed by said respondents, and was commanding libelant, was superintending the lowering of said mainsail; that the hanks of said sail, which held it to the jackstay which is fastened to the mast, stuck, and said sail refused to come down; that, as aforesaid, there was no downhaul on said

steamer "Senator," and the sail could not be hauled down from the deck; that said boatswain ordered libelant to climb the shrouds and loosen said sail; that libelant, pursuant to said order, climbed the shrouds to a distance where he stood about forty (40) feet above the deck of said steamer; that ratlines about twelve inches apart traversed the shrouds horizontally, thus forming the steps of ladders for going aloft; that libelant climbed said shrouds, using said steps as aforesaid; that while standing as aforesaid, about forty feet from the deck, the ratline on which libelant stood suddenly and without warning broke, because it was in a rotten, unsafe, dangerous and unseaworthy [8] condition; that respondents knew, or by the exercise of reasonable care, would have known, that said ratline, was in an unsafe, dangerous, rotten and unseaworthy condition; that said ratline broke, as aforesaid, gave way and wholly failed to support libelant, and yielded to his weight, and caused him to fall down from the place where he then stood to the deck of the vessel; that libelant struck the cargo boom while falling to the deck; that by reason of said fall libelant was very severely injured, and suffered a compound mashed fracture of his right leg, above the knee; that he was injured internally and severely bruised, crushed and otherwise injured, and because of such injuries he has been permanently crippled and is permanently incapacitated from work and cannot follow his occupation of seaman, and has suffered, and is still suffering great pain, and has become, and is still, sick, feeble, and ill; that many of the

said injuries so suffered and sustained by libelant, as aforesaid, are of a permanent nature, and that ever since receiving the same, this libelant has been and he will hereafter be, prevented thereby from pursuing his regular employment or business; that by reason of said injuries this libelant has been and is damaged in the sum of Twenty Thousand Dollars (\$20,000); that each and all the aforesaid injuries and damages to libelant were caused directly and wholly by said negligence of said respondents in failing to furnish safe and seaworthy appliances, means and place with and in which to loosen said sail, which this libelant was so ordered by the said boat-swain to go aloft to loosen, and in the failure of respondents to provide a downhaul for said mainsail of said ship.

#### IV.

That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court. [9]

WHEREFORE, libelant prays that said Pacific Coast Company and said Pacific Coast Steamship Company may be cited to appear and answer all and singular the matters aforesaid, and may be decreed to pay to libelant the said Twenty Thousand Dollars (\$20,000), with interest from December 10, 1913, and that libelant may have such other and further relief as in law and justice he may be entitled to receive.

WILLIAM B. ACTON,

DENMAN & ARNOLD,

Proctors for Libelant.

County of Alameda,  
State of California,—ss.

Axel Hokanson, being first duly sworn, deposes and says that he is the libelant named in the foregoing libel; that he has read the same and knows the contents thereof; that the same is true of his own knowledge, save as to those matters therein alleged on information and belief and, as to such matters, he verily believes them to be true.

AXEL HOKANSON.

Subscribed and sworn to before me this 25th day of January, 1915.

[Seal]

L. J. MORAN,

Notary Public in and for the County of Alameda,  
State of California.

[Endorsed]: Filed Jan. 27, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [10]

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*In the United States District Court for the Northern  
District of California, First Division.*

IN ADMIRALTY.

AXEL HOKANSON,

Libelant,

vs.

THE PACIFIC COAST COMPANY, a Corpora-  
tion, and PACIFIC COAST STEAMSHIP  
COMPANY, a Corporation,

Respondents.



**Answer.**

To the Honorable, the Judges of the United States District Court for the Northern District of California:

The answer of Pacific Coast Steamship Company, a corporation, respondent herein, to the libel of Axel Hokanson, libelant herein, admits, denies and alleges, as follows:

**I.**

Respondent admits the allegations of Article I of said libel.

**II.**

Respondent admits the allegations of Article II of said libel.

Answering unto the allegations of Article III of said libel, respondent admits that heretofore on or about the 10th day of December, 1913, at Seattle, Washington, libelant was hired and employed by it to perform labor and services as a seaman on board the steamer "Senator," owned by respondent, the Pacific Coast Company, and operated and controlled by respondent; admits that on December 10, 1913, said steamer "Senator" left Victoria, British Columbia, on a voyage to the port of San Francisco; admits [11] that pursuant to said employment, libelant was on board said steamer "Senator" acting as a seaman; admits that the mainsail, sometimes called main try-sail, of said steamer "Senator" was up when the steamer left Victoria; denies that there was no down-haul attached to said sail; denies that said steamer

was unseaworthy in that no downhaul was attached to said sail; admits that at one o'clock, but denies that at about 3.25 o'clock P. M., in the afternoon of said December 10, 1913, when said steamer "Senator" was on the high seas off Cape Flattery, the boatswain of said steamer, who was employed by respondent, and commanding libelant, was superintending the lowering of said sail; denies, however, that said boatswain was an officer of said vessel.

Respondent is ignorant as to whether or not the hanks of said sail, which held it to the jackstay which was fastened to the mast, stuck, and for that reason demands that strict proof be made of the allegations thereof; it admits, however, that said sail refused to come down; denies that either as aforesaid in said article, or otherwise, there was no downhaul on said steamer "Senator," and denies that the sail could not be hauled down from the deck; denies that said boatswain ordered libelant to climb the shrouds and loosen said sail, and in that behalf alleges that libelant voluntarily climbed the shrouds to loosen said sail; denies that libelant, pursuant to said order, climbed the shrouds to a distance where he stood about 40 feet above the deck of said steamer, but in that behalf admits that libelant voluntarily climbed the ratlines and shrouds to the point from which he subsequently fell; admits that the ratlines about twelve inches apart traversed the shrouds horizontally, thus forming the steps of ladders for going aloft; admits that said libelant climbed said shrouds using said steps as aforesaid; denies, however, that while [12] standing aloft, as alleged in said arti-

cle, or otherwise, about 40 feet, or any other distance, from the deck, the ratline on which said libelant stood, suddenly and without warning broke, because it was in a rotten, unsafe, dangerous and unseaworthy condition, and in that behalf alleges that no ratline on which libelant stood broke at any time, and that no breaking of any ratline caused or contributed to his fall.

Respondent denies that it knew, or by the exercise of reasonable care would have known, that said ratline was in an unsafe, dangerous, rotten and unseaworthy condition, and in that behalf alleges that said ratline was not in an unsafe, dangerous, rotten and unseaworthy condition; denies that said ratline broke as alleged in said article, or otherwise, or that it gave way and wholly failed to support libelant, or that it yielded to libelant's weight, or caused him to fall down from the place where he then stood to the deck of the vessel.

Respondent is ignorant as to whether or not libelant struck the cargo boom while falling to the deck, and for that reason demands that strict proof be made of the allegations thereof; admits, however, that by reason of his fall, libelant was very severely injured.

Respondent is ignorant as to whether or not libelant suffered a compound mashed fracture of his right leg above the knee, or whether he was internally bruised, crushed or otherwise injured, or whether because of such injury as he received he has been permanently crippled, and is permanently incapacitated from work, and cannot follow his occupation as a seamen,



or whether he is still suffering great pain, or whether he has become and is still sick, feeble and ill, or whether many of the injuries so received and sustained by libelant, as alleged in said article, are of a permanent nature, or whether ever since receiving his injuries, libelant has been, and will hereafter be, prevented thereby from pursuing [13]. his regular employment, or business, and for that reason demands that strict proof be made of the allegations thereof; in that behalf, however, respondent admits that libelant was injured by falling from the shrouds of said mast, and that he suffered pain therefrom, and was thereby disabled for a considerable period.

Respondent denies that by reason of the injuries alleged in said libel, or otherwise, libelant has been, or is damaged in the sum of twenty thousand (20,000) dollars, or at all; denies that each and all, or that any, of the injuries and damages alleged in said article to libelant were caused directly or wholly by the alleged negligence of respondent in failing to furnish safe and seaworthy appliances, means and place within which to loosen said sail; denies that libelant was ordered by said boatswain to go aloft to loosen said sail, and denies that there was any failure of respondent to provide a downhaul for said mainsail of said ship.

Except as hereinbefore admitted, respondent denies each and every of the remaining allegations of said article.

#### IV.

Answering unto the allegations of Article IV of

said libel respondent denies that all and singular the premises are true, but admits that they are within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

Further answering unto the allegations of said libel, respondent alleges:

I.

That heretofore and prior to the 10th day of December, 1913, libelant herein shipped and was employed on board the said steamer "Senator" as an able-bodied seaman, and was at the time he received the injuries hereinbefore described, engaged in his [14] duties on board said steamer as an able-bodied seaman.

II.

That respondent is informed and believes, and so alleges:

That heretofore, on or about the 10th day of December, 1913, while said steamer "Senator" was on the high seas, on a voyage from the port of Seattle, Washington, to the port of San Francisco, California, libelant, with other seamen, was engaged in lowering the main trysail on the mainmast of said steamer; that while being so lowered said trysail, for some unknown reason, stuck, and libelant thereupon voluntarily went aloft to loosen said trysail; that in so doing, libelant climbed the shrouds and ratlines of said mast, and when at the height of said trysail, instead of proceeding to loosen said trysail in a careful and workmanlike manner, said libelant carelessly and negligently and in an unseamanlike manner, removed both feet from said ratlines, and by holding on to one

of said shrouds with one hand only, swung himself bodily away from said shrouds and said ratlines and jumped on to said trysail with both feet; and by so jumping on to said trysail, the same became loosened, and libelant having an insufficient and insecure hold upon said shrouds, lost his hold upon same, and fell to the deck sustaining injuries.

### III.

That respondent is informed and believes, and so alleges:

That said steamer "Senator" was in all respects seaworthy and properly manned, equipped and supplied, and particularly were all of the shrouds and ratlines used by said libelant in going aloft on said mainmast in good order and condition; that said accident was caused solely by the aforesaid careless and negligent manner in which said libelant held himself by said shroud and attempted to loosen said trysail, and was not caused or contributed [15] to by any neglect or failure of duty on the part of said steamer "Senator," her officers or crew, or of respondent herein, or of any of its agents or employees, to equip and maintain said steamer, its tackle, apparel and appurtenances in a thoroughly sound and seaworthy condition.

### IV.

That libelant, in attempting to loosen said sail as hereinbefore alleged, by going aloft on the shrouds and ratlines of said steamer, by removing both feet from said ratlines, and by holding on to one of said shrouds with one hand only and swinging himself bodily away from said shroud and said ratlines, and

jumping on said trysail, as aforesaid, assumed the risk incident to such employment and the manner adopted and used by him in performing such work, and the injuries resulting therefrom.

V.

That if there was any defect in said trysail, its rigging gear or equipment, or any defect in the downhaul of said sail, or any defects in the shrouds or ratlines of the rigging of the mast carrying said sail, such defect or defects were open, obvious and known to libelant, or could, by the exercise of reasonable diligence, have been discovered by libelant before using same, and if libelant's injuries were *cause* or contributed to by said defects, or any of them, the risk thereof was assumed by libelant.

VI.

That said steamer was, on the commencement of said voyage, fully and properly manned by competent officers and crew, and was fully equipped and supplied with all of the extra gear, ropes, cordage, rods, parts, supplies and equipment necessary to maintain her in an efficient and seaworthy condition, and particularly to maintain said main trysail and the shrouds and ratlines of the mast carrying said sail in a thoroughly sound and seaworthy state; that [16] if said sail or said shrouds or said ratlines were not kept and maintained in a sound and seaworthy condition, such condition was caused by the neglect of said officers or crew to use the gear, ropes, cordage, rods, parts, supplies and equipment on board of said vessel with which said sail, said shrouds and

said ratlines could have been maintained in an efficient and seaworthy state.

VII.

That immediately upon libelant being injured as hereinbefore alleged, he was sent to the United States Marine Hospital at Port Townsend, Washington, where he was given every medical and surgical attention and care by the physician and surgeon of the United States Marine Hospital service; that thereafter, he was brought to San Francisco, California, and given further medical and surgical attention, all of the expense of which in the sum of three hundred eighty-eight and 30/100 (388.30) dollars, have been paid by respondent in accordance with its obligations under the maritime law for medical expenses.

VIII.

That respondent has been paid his wages for more than the contract period of his employment, as required by the maritime law, and has, in fact, paid libelant the sum of two hundred and twenty-five (225) dollars.

WHEREFORE respondent prays that the libel herein may be dismissed with costs.

IRA A. CAMPBELL,

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondent, Pacific Coast Steamship  
Company. [17]

State of California,

City and County of San Francisco,—ss.

Geo. W. Towle, being first duly sworn, deposes and says:



That he is an officer, to wit, the secretary of Pacific Coast Steamship Company, a corporation, one of the respondents in the above-entitled action; that he makes this verification for and on behalf of said corporation; that he has read the foregoing answer and is familiar with the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on information or belief, and as to those matters, that he believes it to be true.

GEO. W. TOWLE.

Subscribed and sworn to before me this 2d day of March, 1915.

[Seal]

JAMES MASON,  
Notary Public in and for the City and County of San Francisco, State of California.

Service of the within Answer and receipt of a copy is hereby admitted this 2d day of March, 1915.

WILLIAM DENMAN,  
DENMAN & ARNOLD,

Proctors for Libelant.

[Endorsed]: Filed Mar. 3, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [18]

*In the District Court of the United States in and for  
the Northern District of California, First Divi-  
sion.*

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Deposition of S. A. Pettersen, for Libelant.**

BE IT REMEMBERED, that on Wednesday, February 3, 1915, pursuant to stipulation of counsel hereunto annexed, at the office of T. A. Thacher, Esq., in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., S. A. Pettersen, a witness produced on behalf of the libelant.

T. A. Thacher, Esq., appeared as proctor for the libelant and Milton Mannon, Esq., and Joseph B. McKeon, Esq., appeared as proctors for the respondents, and the said witness having been by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.

(It is hereby stipulated and agreed by and between

(Deposition of S. A. Pettersen.)

the proctors for the respective parties that the deposition of the above-named witnesses may be taken *de bene esse* on behalf of the libelant at the office of T. A. Thacher, Esq., in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, on February 3, 1915, before Francis Krull, a United States Commissioner for the Northern District of [19] California, and in shorthand by E. W. Lehner.

It is further stipulated that the deposition when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.

S. A. PETTERSEN, called for the libelant, sworn.

Mr. THACHER.—Q. Mr. Pettersen, what was your occupation in December, 1913?

A. Seaman.

Q. What boat were you on?

A. The "Senator."

Q. When did you go on the "Senator"?

A. December 8th or 9th; it was on a Monday, the 8th or the 9th.



(Deposition of S. A. Pettersen.)

Q. The 8th or 9th of December, about that time?

A. Yes, it was on a Monday; I think it was the 8th. The accident happened on the 10th to Hokanson. The 8th it was, yes, exactly; the accident happened on the 10th.

Q. You went on the "Senator" on the 8th of December? A. Yes.

Q. State whether or not Mr. Hokanson was a sailor at the same time. A. Yes.

Q. When was the first time you saw Mr. Hokanson was injured?

A. It was the time when we got called out to put him in the life-saving boat to put him ashore, at Neah Bay, 5 miles inside [20] of Cape Flattery.

Q. What was the condition, Mr. Pettersen,—will you describe it fully, of the rigging on the mainmast of the shrouds and ratlines in particular?

Mr. MANNON.—We object to that question as immaterial, irrelevant and incompetent; it does not appear that this witness is familiar with the rigging on the mainmast, and on the further ground that the question is uncertain as to time.

Mr. THACHER.—Q. Did you see the rigging on the mainmast on December 10th, that is the day of the accident?

Mr. MANNON.—I object to the question as leading; the question should be as to when the witness saw that rigging, if at all.

Mr. THACHER.—I will ask that you answer that, Mr. Pettersen?

(Deposition of S. A. Pettersen.)

A. I was not up on the rigging or anything like that on the 10th; I was up there later on.

Q. How soon were you up on the rigging after the 10th of December?

A. Well, I cannot exactly state the time, but the one time especially when I took notice of the rigging was two weeks afterwards when I was painting the masts. When I painted the masts then I took notice of that rigging, how it was. I was up there very often, you know, but I mean the time when I took special notice of it was that time when I painted the masts.

Q. Were you up there on the voyage of which you were speaking?

A. Well, yes, I have been up on that rigging very often, but I cannot exactly state—it happens so often you know, you don't pay any attention to it.

Q. What was the condition of the rigging?

Mr. MANNON.—I object to that question upon the ground it is uncertain as to time.

Mr. THACHER.—Q. What was the condition of the rigging during the voyage?

A. The condition of the rigging was poor,—very poor. [21]

Q. How was it very poor?

A. Well, simply all the ratlines and everything, they were just like ashes; if you touched anything it just simply dropped; that is the condition of the 7 or 8 top ratlines.

Q. The 7 or 8 top ratlines on the mainmast?

A. On the mainmast.

(Deposition of S. A. Pettersen.)

Q. On the starboard or port side?

A. Both sides were pretty near alike, hardly any difference; on account of the smoke that comes from the smokestack, it catches on the mainmast and it gets greasy and almost catches fire on the mainmast, the smoke that comes from the smokestack it catches on the mainmast and it gets everything greasy, you know, and they almost burn up there, almost burn up the rigging that is on the mainmast; it throws fire out from the smokestack when they are cleaning the fire, and so on, you see.

Mr. THACHER.—That is all.

Cross-examination.

Mr. MANNON.—Q. The bad ratlines were on the 7 or 8 top ratlines. A. Yes.

Q. They were just below the cross-trees, were they?

A. Yes, just below the top; that is, the top ratlines; there is no ratlines further up than that.

Q. How far up from the deck do the ratlines run—how far up, do you know?

A. It must be about 60 feet. Hokanson, he fell further down than that.

Mr. MANNON.—I ask to have that last stricken out as not responsive; it appears that the witness did not see it.

Q. You did not see the accident to Mr. Hokanson at all did you? A. No, I did not see him fall.

Q. You don't know anything about that except what somebody has told you?

A. No, no one ever told me—nobody could tell

(Deposition of S. A. Pettersen.)

anything; [22] there is nothing to be told about it, except that that sail that he was hauling down—

Q. (Intg.) You did not see him haul the sail down?

A. No, I didn't see that; if a person goes up that rigging and has a look at that rigging, you know a person can just guess what happened.

Q. All you know about the accident is what you guessed about where it took place; you did not see it at all? A. No, I did not see it.

Q. How long after Mr. Hokanson was hurt, how long after the 10th of December was it that you saw him taken off the boat?

A. It was the same day, the 10th of December, in the afternoon, about an hour after he was hurt—about half an hour.

Q. About half an hour after he was hurt?

A. Yes.

Q. How far apart are the ratlines?

A. They are about a foot apart.

Q. You did not take any particular notice of the rigging until about two weeks after when they started to paint the boat?

A. Well, I was very often up in that rigging but I never paid any actual attention to it because, you know, I have been up there in the rigging to do things and I never stopped to look at anything; you just look at what you are doing; that is all you have a chance to look at. But this time when I took special notice of the rigging it was when I was painting the mast down.

(Deposition of S. A. Pettersen.)

Q. That is the first time you paid any particular attention to it?

A. Yes, any particular attention to it.

Q. What do the ratlines run between, how many shrouds are there?     A. Four.

Q. On what side of the mast are they?

A. On the two sides.

Q. Port and starboard sides?

A. Yes, on both sides.

Q. And between what shrouds on the port side do the ratlines run?

A. They run between the forearm right along.

[23]

Q. So that the ratlines extend clear across and are attached to each of the four shrouds?

A. Yes, they are attached to each of the four shrouds.

Q. Now, when a sailor goes up and down there does he take hold of the shrouds or the ratlines with his hands?

A. He takes hold of the shrouds with his hands, when he goes up the rigging.

Q. When a sailor goes up the rigging he always takes hold of the shrouds?     A. Yes.

Q. Why does he do that?

A. The reason why, that is the only solid foundation you have got, is the shrouds, just like that, you see (illustrating); you see the ratlines run across that forward, and there are three seizings and these seizings are very easy to be broke across there; they are very easy to be broke; these here are supposed



(Deposition of S. A. Pettersen.)

to be standard things, shrouds, going up and down, you know.

Q. So that the shrouds are strong and if a man holds on to the shrouds he is not likely to fall?

A. Yes.

Q. If he holds on to the ratlines the ratlines are more likely to break than the shrouds are?

A. Yes, surely so.

Q. Now, these 7 or 8 top ratlines that you are talking about, you think were not in good condition?

A. No, they were in very poor condition.

Q. Did you look at the seizings there to see whether or not they were tied around and on to the shrouds?

A. Yes. You see the ratlines were going across there (illustrating).

Q. Describe it?

A. There was nothing hardly left; they was just simply burned up.

Q. The ratlines were simply in place there, but the seizings were not in good condition at all?

A. There were 7 or 8 ratlines there; the seizings I can't say so [24] much about; but there was hardly anything left of the ratlines, they were burned up, rusted up, they were just like ashes. You might touch them and they would simply drop, at the least little thing, when you touch them, just like ashes, burned up.

Q. What were these ratlines made of?

A. Thin pipes.

Q. They were in such bad condition, if a man had

(Deposition of S. A. Pettersen.)

touched any one of the 7 or 8 top ones they would drop, would they?

A. Yes, they were in very poor condition.

Q. They are the ratlines you are talking about as being in bad condition when you saw them?

A. Well, they were all in poor condition, all the rigging, right down.

Q. And they were in such conditon that if a man had touched any of them they would drop to the deck at once?

A. There was none of them that a person could trust; he would not trust any of them, those ratlines; you could not depend on any of them to carry you up as far as that.

Q. These 7 or 8 ratlines that you say were in bad condition, the 7 or 8 top ones, if a man touched any of those they would drop to the deck right away, they would not hold?

A. A person would think so; I would not depend on any of them, if a person could help it.

Q. In what position were these ratlines when you saw them,—horizontal on the shrouds?

A. Yes.

Q. What sort of a sail was this that Hokanson was going to pull down,—do you know?

A. It was a triangle sail; that sail was made up, you see, and it was hoisted up next the mast in order to be out of the way.

Q. At the top it was fastened to the mast and jackstay?

A. There was a jackstay going up and down the

(Deposition of S. A. Pettersen.)

mast and this sail [25] got stuck on the jackstay, we couldn't get it down, and that is why Hokanson went up there.

Q. So that the sail ran between the jackstay and the mast and the deck; is that right?

A. Well, the jackstay goes up and down the mast, it hangs on the jackstay, and it runs up and down, and the sail was made up this way, and they were trying to pull this down; on account of this smoke and fire coming out from the smokestack, it gets on this sail and it burns it up, burns the sail up; that is why they wanted the sail down; that is why they wanted it down, and it got stuck.

Q. How far above the deck was the bottom of the sail?

A. Well, I guess about 5 or 6 feet, something like that—about 6 feet or something like that.

Q. About 6 feet?

A. About 5 or 6 feet; something like that.

Q. It was more than 3 or 4 feet?

A. Just like a person could reach, something like that.

Q. You could reach the jackstay standing on the deck, reach the bottom of it?

A. Yes, that is what they call the tackle, you could reach that.

Q. And the ratlines on that mainmast extend up to about 60 feet from the deck, you think?

A. Yes, I should think so; maybe more. You see the ratlines go from the boat-deck we call it, and where Hokanson fell was down on the saloon-deck, a



(Deposition of S. A. Pettersen.)

deck further down, where he fell, 8 or 10 feet further down Hokanson fell—I should think about something like 50 feet, between 50 or 60 feet.

Q. You did not see him fall at all?

A. No, I did not see him fall.

Q. What are the seizings made out of on the center about the mainmast?

A. They are made of iron tubes, thin.

Q. The ratlines are made out of pipe?

A. Yes. [26]

Q. Now, how are they fastened on to the shrouds?

A. With marline—what they call marline.

Q. Spun yarn?

A. No, not quite as heavy as spun yarn is.

Q. Did you ever report to anybody about these ratlines that you saw up there?

A. No, I did not; they all seemed to know all about it, so I couldn't report anything to anybody.

Q. Everybody on the boat knew all about it, did they?

A. Yes; the boatswain, after this accident happened, that Hokanson fell down, the boatswain seemed to know all about the rigging; he was talking enough about it.

Q. Did you talk to the boatswain about it?

A. No, he seemed to know more about it than I did.

Q. You did not talk to him about it at all, did you?

A. No, he claimed he had been up there and investigated about the rigging.

Q. He did not tell you that, did he?

A. Yes, he told us there, all of us.

(Deposition of S. A. Pettersen.)

Q. When?      A. Shortly after this accident.

Q. What date?

A. The day after, or something like that.

Q. What did he say?

A. He said the rigging was all right, that is, what he saw.

Q. Who was there when he said that?

A. I think you can ask anybody of the crew on the ship, and they can state that.

Q. Who was there when the boatswain said that?

A. Well, that is pretty hard for me to remember now, pretty hard to recall their names, the persons that were there.

Q. Can you recall the names of any of them besides yourself?

A. I think I can recall Henry Anderson and Jack Gunderson—Henry Anderson and Jack Gunderson.

[27]

Q. Henry Anderson and Jack Gunderson?

A. Yes. A person don't take notice of those things, you know, everything that is going on on a ship, when you have got work to do, you can't pay attention to everything.

Q. Whereabouts on the boat was it that this took place, that you and the boatswain had the talk?

A. Outside the forecastle there, in the square.

Q. What was the boatswain's name?

A. The boatswain's name is Oscar Selo—something like that; I don't know exactly; I never saw his name written down.

Q. What boat are you on now?

(Deposition of S. A. Pettersen.)

A. On the "Queen."

Q. Where is she running?

A. Between Seattle and San Diego.

Q. When are you going out again?

A. 5 o'clock.

Q. When do you expect to be back again?

A. I will be back on Friday morning, a week.

Q. How often do you make a round trip between here and Seattle on the "Queen"?

A. We make a two weeks' schedule—we make a round trip in two weeks; we will be back from Seattle Friday morning or Thursday night.

Q. So that you are in this port every two weeks?

A. I am in here twice in two weeks, once going north and once going south.

Q. How long do you stay in port when you are here?

A. Well, we just stay here, coming from the south, like this time, if we have fine weather, we would be in in the afternoon at 2 o'clock—instead of that we came in at 8 o'clock last night; and coming from the north we get in at 10 o'clock and leave at 4 o'clock, just stay in here a few hours—about half a day every time.

Redirect Examination.

Mr. THACHER.—Q. When did you first notice the bad condition of the ratlines? [28]

A. Well, that is pretty hard to say. I never paid much attention to them.

Q. Was it on the first voyage you took?

(Deposition of S. A. Pettersen.)

A. I noticed the ratlines were pretty bad, I noticed that shortly after I came on board the ship. When I specially paid attention to the ratlines, that they were bad, that was about something like two weeks afterwards when I was up painting the rigging.

Recross-examination.

Mr. MANNON.—Q. The very first time you saw the ratlines you could tell they were bad, could you?

A. If you had time enough, you know, to investigate the ratlines, but when you are sent to do a job, do a thing, you can't look around at everything at one time, you know; you can't look at everything at one time; you are just sent up to do a thing, you know, and you simply go to do it, just like everything was all right, and when you have just got this thing to think about, what you are going to do, you can't look at what you are doing and everything else around you at the same time, you know.

Q. And those ratlines you are talking about, you didn't know those were bad until about two weeks after Mr. Hokanson was hurt?

A. I was there at that time, when I was there painting the mast and coming down on the chair, I would look at it; I was sitting in a chair, a piece of board on a rope, and lowering myself down along the mast, and as I was going down I noticed it.

Q. What you noticed then was that there was 7 or 8 top ratlines that were in position but were in you thought very bad condition? A. Yes.

Q. Those 7 or 8 were the top ratlines?

A. Yes. [29]

United States of America,  
State and Northern District of California,  
City and County of San Francisco,—ss.

I certify that in pursuance of the stipulation hereunto annexed, on February 3, 1915, before me, Francis Krull, a United States Commissioner for the Northern District of California, at San Francisco, at the office of T. A. Thacher, Esq., in the Merchants' Exchange Building in the City and County of San Francisco, State of California, personally appeared S. A. Pettersen, a witness called on behalf of the libellant in the cause entitled in the caption hereof, and T. A. Thacher, Esq., appeared as proctor for the libellant and Milton Mannon, Esq. and Joseph B. McKeon, Esq., appeared as proctors for the respondents, and that the said witness being by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in said cause, deposed and said as appears by his deposition hereto annexed.

I further certify that the said deposition was then and there taken down in shorthand notes by E. W. Lehner, and thereafter reduced to typewriting; and I further certify that by stipulation of the proctors the reading over of the deposition to the witness and the signing thereof was expressly waived.

And I do further certify that I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the clerk of the United States District Court for the Northern District of California.



And I do further certify that I am not of counsel, nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption. [30]

IN WITNESS WHEREOF, I have hereunto set my hand at my office aforesaid, this 31st day of March, 1915.

[Seal]

FRANCIS KRULL,  
U. S. Commissioner, Northern District of California,  
at San Francisco.

[Endorsed]: Filed May 14, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [31]

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*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
sion.*

(Before FRANCIS KRULL, U. S. Commissioner.)

AXEL HOKANON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Deposition of Jacob C. Gunderson, for Libelant.**

BE IT REMEMBERED, that on Saturday, February 13, 1915, pursuant to stipulation of counsel hereunto annexed, at the office of T. A. Thacher, Esq., in the Merchants' Exchange Building, in the City



(Deposition of Jacob C. Gunderson.)

and County of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Jacob C. Gunderson, a witness produced on behalf of the libelant.

T. A. Thacher, Esq., appeared as proctor for the libelant and Ira A. Campbell, Esq., appeared as proctor for the respondents, and the said witness, having been by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.

(It is hereby stipulated and agreed by and between the proctors for the respective parties that the deposition of the above-named witness may be taken *de bene esse* on behalf of the libelant at the office of T. A. Thacher, Esq., in the Merchants' [32] Exchange Building, in the City and County of San Francisco, State of California, on February 13, 1915, before Francis Krull, a United States Commissioner for the Northern District of California, and in shorthand by E. W. Lehner.

It is further stipulated that the deposition, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are

(Deposition of Jacob C. Gunderson.)

reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is expressly waived.) [33]

JACOB C. GUNDERSON, called for the libelant, sworn.

Mr. THACHER.—Q. Mr. Gunderson, what voyages did you take on the “Senator” in December, 1913?

A. From Seattle to San Francisco—is that what you mean?

Q. Yes. A. From Seattle to San Francisco.

Q. You say you took a voyage? A. Yes.

Q. When did you take your first voyage?

A. The first was—I joined her on the 8th of December.

Q. Was Mr. Hokanson a seaman at that time?

A. Yes.

Q. What was your capacity? A. Seaman.

Q. On that first voyage, when the “Senator” was off Cape Flattery what was done with the main-sail? A. They were trying to lower it down.

Q. What did Hokanson do?

A. He went up aloft to see whether he could get it down or not, because we were unable to get it down from the deck.

Q. How did he happen to do this?

A. Well, being unable to get the sail down from the deck, he was told by the boatswain to go up and see what was wrong with it. Is that what you mean?

Q. Yes, how he happened to go up.

(Deposition of Jacob C. Gunderson.)

A. He went up at the boatswain's order.

Q. Did you hear him give Mr. Hokanson this order?     A. Yes.

Q. What did he say?

A. He said, "Go up and see what is the matter with it, Al."

Q. Did you see Hokanson after he got aloft?

A. Yes.

Q. What side was he on?

A. He was on the port side.

Q. What was he doing when you saw him aloft?

A. Well, I saw him standing up there, I did not see him doing anything in particular at the time, because I went around on the other side [34] and tried to pull on it.

Q. How far up was he?

A. He was right up to the upper ratlins.

Q. Did he have hold of anything?

A. He had hold of something when I saw him, standing in the rigging, he had hold with one hand.

Q. What did he have hold of?

A. Well, I can't remember; I didn't take any particular notice of that, but I saw he had his hand extended a little, or raised up a little; I supposed he had hold of the shroud or some tackle, I don't know what it was.

Q. When did you see Hokanson next?

A. I saw him when he was laying on the hatch.

Q. How soon after was this?

A. Well, this was only, I should think a couple of minutes.

(Deposition of Jacob C. Gunderson.)

Q. Did he say anything?

A. Well, I asked him what happened.

Mr. CAMPBELL.—I object to the witness testifying as to what Hokanson said, for the reason that there is no showing that this witness had any authority to bind the company, and on the ground it is purely hearsay evidence.

Mr. THACHER.—Answer the question.

A. Well, he complained about the rigging being rotten.

Q. What did he say? Do you remember specifically what he said?

A. Yes, he said that everything is all rotten—everything is rotten up there.

Q. Will you describe the condition of the rigging on the port side of the mainmast where Hokanson had been standing?

Mr. CAMPBELL.—If he knows.

Mr. THACHER.—Yes, if you know.

A. Yes, I know that it was in very bad shape, that several ratlins were either burned or rusted, I couldn't say exactly; the seizings were bad.

Q. How many were missing?

A. Well, I remember a couple being [35] missing like this, that there was a part of the ratlin missing between the seizings, rusted off, like, and a part was missing that way.

Q. Suppose you draw a picture of it, will you?

A. Yes.

Q. Make "A" where the masthead is.

A. The ratlins run this way; they are very nar-

(Deposition of Jacob C. Gunderson.)

row; there is very little space between the ratlins there.

Q. Up around "A"?

A. Yes, just about space enough for a man to get his foot in between; I noticed that they were burned off here, just how many I could not remember now, but I know about five or six ratlins were in bad shape there, five or six ratlins down from the upper one.

Q. Was that about where you saw him standing?

A. Yes, at the time that I saw him he was up there. Here is the mast, you see, and there was a stay on that mast; there is the sail rolled up, and it is hoisted up on that stay, and that extends right up underneath here, up underneath the masthead, and in order to get up there, to take that sail down, or whatever he was doing, he had to be right up at the top of the rigging.

Q. Did you see any hanging down?

A. I saw one ratlin, yes, that was broke off on one end and hanging down, that I can remember.

Q. Will you mark that "B" about where he was standing when you saw him?

A. Well, you see, to mark just where he was standing, I would have to know the exact ratlin from the top, but I could not swear to that; I could not swear to just what ratlin he was standing on.

Q. But he was up around "A"?

A. Yes, that is the best that I can testify to.

Q. Where were the ratlins in relation to the smokestack?



(Deposition of Jacob C. Gunderson.)

A. The ratlins in relation to the smokestack?  
[36]

Q. Yes.

A. You mean what effect the smokestack might have upon them or the fire of the smokestack?

Q. State generally, yes.

Mr. CAMPBELL.—Do you mean whether they were forward or back of the mainmast?

Mr. THACHER.—Yes, and the effect of the smokestack.

A. They were abaft the smokestack.

Q. What effect did the smoke have?

A. Well, the smoke will affect the ratlins.

Q. How?

A. As well as affect anything else, especially when they are burning coal.

Q. How does it affect the ratlins?

A. Well, lots of smoke—that is about the only thing I can say—and fire, once in a while, cinders blowing out of there.

Q. You mean it burns?

A. Yes; you see that quite often when they are burning coal, that cinders are laying right on the deck.

Q. Does the smoke go through these ratlins a good deal of the time?     A. It goes by them, I know.

Q. Through them?

A. Yes, through them, right by the mast.

Mr. THACHER.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. How long had you been a



(Deposition of Jacob C. Gunderson.)

seaman on board the "Senator" at this time?

A. This was my first voyage as a seaman.

Q. Your first voyage?

A. Yes. We signed on, I think, the 8th of December, and this happened, I guess, two days afterwards.

Q. Where had you been prior to that time?

A. On the "President."

Q. Where had the "Senator" been running?

A. To Nome previous to this.

Q. She had returned from her last trip to Nome?

A. Well, she [37] had been laid up for a while alongside of the coal bunkers up in Seattle, I think alongside of the coal bunkers she was laying—yes, she was laying alongside of the coal bunkers when we went aboard.

Q. Had you been on her before?      A. No.

Q. You did not see Hokanson when he fell?

A. No, I did not see him fall.

Q. You did not see him at the time that he started to fall?

A. No, that is what I mean, I did not see him.

Q. You don't know, then, what he was doing at the time that he actually fell from the rigging?

A. No, I could not say that.

Q. You do know that he went aloft?      A. Yes.

Q. You saw him start up the shrouds and ratlins?

A. Yes.

A. And then you went over onto the other side of the vessel?      A. Well, when he got up there, yes.

Q. What were you doing on the other side of the

(Deposition of Jacob C. Gunderson.)

vessel?     A. I was trying to pull the sail down.

Q. Trying to pull it down?

A. I was trying to pull it down previous to his going aloft, you know.

Q. What was this sail, triangular in shape?

A. Yes.

Q. Three-cornered?     A. Yes.

Q. It run on a stay that ran from the masthead to the after part of the vessel?

A. No. Here is the mast, and the stay is running parallel with the mast; that iron stay is fastened to the mast, and with hinges hooked over to that stay.

Q. That is the stay on which the sail ran up and down the mast?     A. Yes.

Q. Parallel with the mast?     A. Yes.

Mr. THACHER.—If you do not mind my interrupting you, Mr. Campbell, I will offer this sheet as Libellant's Exhibit 1. [38]

(The drawing is marked "Libellant's Exhibit 1.")

The WITNESS.—I can make it plainer, if you want it.

Mr. CAMPBELL.—I just want a general idea as to what kind of a sail it was. The foot of this stay was fastened to the mast just above the deck?

A. Yes, just above the deck.

Q. How were you trying to get it down? Were you trying to pull it down?

A. Trying to pull it down, yes.

Q. What part of the sail did you have hold of trying to pull it down?

A. Well, I will tell you, I can't remember whether

(Deposition of Jacob C. Gunderson.)

there was a downhauler on that sail or not, to pull on.

Q. Do you remember taking hold of the canvas?

A. I can't remember now; if there was a downhauler, naturally I would take hold of it.

Q. Assume there was not a downhauler?

A. Then I would take hold of the rope of the sail.

Q. That is the rope which borders the sail?

A. No, the rope by which the canvas is fastened.

Q. The rope around the outer edge of the sail?

A. Yes.

Q. So that the canvas of the sail was within your reach as you stood on the deck of the vessel?

A. Yes.

Q. You tried to pull this down either by means of the downhauler or by taking hold of the sail, itself?

A. Yes.

Q. Had you helped spread the sail, set it?

A. No, the sail was there when we came aboard.

Q. Hadn't you been using the sail?      A. No.

Q. Hadn't it been set at all?

A. No, it had not been set at all.

Q. The sail was stowed away or rolled up, was it, so that it hung perpendicular with the mast?

A. Yes.

Q. Was it rolled up at the time you tried to haul it down? [39]      A. Yes, it was rolled up.

Q. Rolled up so that it made a big roll just back of the mast?      A. A roll.

Q. See if I can get the right idea from you: Assume that is the masthead.      A. Yes.

(Deposition of Jacob C. Gunderson.)

Q. Where is the top of the stay fastened, to the masthead?     A. Over along here, you see.

Q. Was the top of that stay fastened to the mast-head?

A. It does not go quite up underneath there.

Q. Is it fastened to an eye-bolt up there?

A. No.

Q. Was it looped around the mast?

A. It is fastened all away along the mast; I don't know how that stay was fastened, but they are on the mast, as a rule, fastened all the way.

Q. Aren't there rings around that stay?

A. I should think those would be riveted onto the mast. I wouldn't say for sure.

Q. In any event, at the time you tried to take the sail down, it was rolled up?     A. Yes.

Q. So that it made a roll something like that?

A. Yes.

Q. Which I mark "sail" on the after part of the mast?     A. Yes.

Q. You were trying to lower this sail down to the deck?     A. Yes.

Q. What do you call the ropes by which you roll the sail up?

A. By which you keep the sail together after it is rolled up?

Q. Yes?     A. The gaskets.

Q. Had you taken the gaskets off?     A. No.

[40]

Q. You had not taken them off. So you were trying to lower it down to the deck with it still in its

(Deposition of Jacob C. Gunderson.)

gaskets?     A. Yes.

Q. What were the ratlines made of?     A. Iron.

Q. Iron?     A. Yes.

Q. Iron pipes or solid iron?

A. As far as I can remember they were solid iron.

Q. About what size?

A. About the thickness of my finger, I guess.

Q.  $\frac{1}{2}$  or  $\frac{3}{4}$  of an inch in diameter?

A. I should think about a  $\frac{1}{2}$  inch in diameter; I would not say for sure about that; about  $\frac{5}{8}$ .

Q.  $\frac{1}{2}$  to  $\frac{5}{8}$  of an inch, would you say?

A. I should think about  $\frac{5}{8}$  of an inch.

Q. When these ratlines are in place they are fastened by means of seizings to the shrouds?

A. Yes.

Q. That seizing is a small tarred rope, isn't it?

A. What they call marline.

Q. A small tarred rope that they call marline?

A. They call it marline on board.

Q. Did they have plenty of that aboard the "Senator," do you know?

A. I could not say how much they had on board.

Q. After Hokanson fell did you pick up any of these ratlines, these iron rods, off the deck of the vessel?     A. No, not to my recollection.

Q. Did you see any lying around there?

A. No.

Q. Did you hear of anybody picking any up or see any of them lying on the deck?

A. No, I did not see anybody pick any up; I heard

(Deposition of Jacob C. Gunderson.)

somebody say they picked up a ratline kind of forward.

Q. Kind of forward?

A. That is what I heard, I never saw anything of it. [41]

Q. You didn't see any? A. No.

Q. Did you see the place on the mast where these ratlins came from that somebody said he picked up?

A. No.

Q. You did not see any of the ratlins missing, did you, up on the shrouds?

A. It is so long ago now that I can't remember exactly the condition of them up there; I know that there were several of them broke off in the middle and part of the end missing that way, but I couldn't exactly remember the condition to say whether they were entirely out of the seizing, or not.

Q. Isn't it a fact that all of the ratlins—you went aloft afterwards, didn't you? A. Yes.

Q. Isn't it a fact that all of the ratlins were in their position horizontally across the shrouds when you went aloft?

A. They were fastened, with the exception of one ratlin that was hanging down a little on one end, the seizing being carried away.

Q. Except for one ratlin that was down a little at one end, all the other ratlins were in their horizontal position across the shrouds, weren't they?

A. They were in a position in a way—that is, the seizings as far as I can remember were there, but were broken off in the middle.



(Deposition of Jacob C. Gunderson.)

Q. Broken off in the middle, I understand that, but the iron rod was still in a horizontal position across the shrouds, was it not?

A. Yes, as far as I can remember.

Q. With the exception of one ratlin?

A. I took particular notice at the time, to the best of my recollection and I can say that they were broken off in the middle, rusted off and the seizing gone in one and outside of that the seizings were there, as far as I can remember.

Q. The seizings were there and the rods were in their natural position across the shrouds?

A. Yes; you know there [42] is very little space there; there is not much of a space there.

Q. But you know what I mean when I say they were in their natural position across the shrouds?

A. Yes.

Q. Were they or were they not in their natural position across the shrouds?

A. You can't call it exactly natural position when they are broken off, when there is only a part of the ratlin there.

Q. You understand when a seizing is gone—

A. That is the best I can say, that the seizings were not broke off.

Q. The seizings were not broke off?

A. There may have been a seizing broken off, but I took particular notice of the ratlins that were rusted off.

Q. Only this one ratlin that you speak of that was

(Deposition of Jacob C. Gunderson.)

down by the end was tilted down about  $\frac{1}{2}$  an inch, was it not?

A. It was down just a little, on one end.

Q. Just a little down on one end. How far?

A. Just how much I couldn't say now. It was hanging in one seizing.

Q. Do you remember making this statement in the presence of Mr. George W. Towle, the attorney for the Pacific Coast Steamship Company, subsequent to the conclusion of this voyage—

A. Do you mean the little gentleman with chin whiskers?

Q. Yes, you made a statement to him, didn't you?

A. Yes.

Q. Do you remember making this statement, that the ratlins stood straight in their seizings with the exception that the upper one at the after end was bent down about  $\frac{1}{2}$  an inch?

A. Well, that might have been so.

Q. *You* recollection at the time you made that statement was fresher than it is now, was it not? You recollected better then [43] than you do now?

A. Well, it was not so far off at the time, yes.

Q. You would say that you could recollect about it better then than you do now?

A. Yes. I remember part of it as well now as I did then, but shortly after I had been up there, if I did give a statement then, I could have given it more accurately, I think, because I took particular notice

(Deposition of Jacob C. Gunderson.)

of everything; but in the course of time you are apt to forget the little points.

Q. You remember making the statement that I just read, don't you?

A. Yes, I told him that the ratlin was hanging in one seizing, but just how long the other end was, I don't remember stating, whether I said an inch or so I don't remember. Whatever you have there is what I said, I know that.

Q. When you go aloft what do you consider the seamanlike way of doing, taking hold of the shrouds or taking hold of the ratlins?

A. Well, as a rule when I go aloft if I am in a hurry and I run fast, I take hold of the ratlins, going a little ways, but going up a little higher I generally take hold of the shrouds.

Q. Which do you consider the seamanlike way, taking hold of the shrouds, don't you?

A. Well, we do as a rule. I have seen some good seamen take hold of the ratlins too. It is a little safer, I consider, that is when I go aloft, to take hold of the shrouds.

Q. Do you remember making this statement to the same gentleman I spoke of, that in your judgment good seamanship demanded that a man going aloft or in working aloft, the shrouds should be used as hand-holds where available, and not ratlins? A. No.

Q. You don't remember that?

A. I told him that in going aloft [44] the shrouds should be used as hand-holds, yes, but I told him in working aloft it was different, because when

(Deposition of Jacob C. Gunderson.)

you were up on the ratlines working you are using both hands and you are standing on the ratlines and have hold of nothing, so I could not very well say that in working aloft that it would be better seamanship to have hold of the shrouds.

Q. Mr. Gunderson, in going aloft on these ratlins, the ratlins are immediately in front of your eyes, as you climb up the mast, are they not? A. Yes.

Q. If there is anything wrong with these ratlins in your judgment could Mr. Hokanson have seen them before he climbed on to them with his feet?

A. If they were in bad condition when he went up there?

Q. Yes. A. Yes, naturally.

Q. They were right in front of his eyes before he could get his feet on them, aren't they?

A. Yes, they are right in front of you when you walk by them.

Q. As you climb up the rigging those ratlins are right immediately in front of your eyes, are they not?

A. Yes.

Q. Before you get your feet on to them?

A. Yes.

Q. And they are right in front of your eyes before you get your hands on to them, aren't they?

A. Yes, they are in front of you all the time; you can't help seeing the ratlins; that is a known fact.

Q. Did you see any of the shrouds on this vessel which were broken or gone? A. The shrouds?

Q. Yes, on this side of the mast?

A. No, not that I remember.

(Deposition of Jacob C. Gunderson.)

Q. You never heard of them being gone?

A. No, not that I can remember.

Mr. CAMPBELL.—I would like to offer this drawing which [45] roughly shows the way the sail was furled.

(The drawing is marked Claimant's Exhibit "A.")

Redirect Examination.

Mr. THACHER.—Q. There has been considerable discussion as to which of the seizings were or were not in place. Will you state exactly what the condition of the ratlins was in the place where or approximately in the place where Mr. Hokanson was standing, about how many were missing, if any were missing, and what the condition of the ratlins was? Now, mind you I am not speaking of seizings, I am speaking of the ratlins. Will you state what the condition of the ratlins was?

A. Well, about 5 or 6 of the ratlins were in bad shape.

Q. What do you mean by bad shape?

A. That is what I am trying to get right, that it could be seen that they were in bad shape. Sometimes perhaps a seizing is bad and you can't see it.

Q. How many were missing, if any were missing, of the ratlins?

A. Well, to say any ratlines was gone entirely, I can't remember. As far as I can remember part of the ratlins were there.

Q. When you say missing entirely you mean reaching from the shroud on the outside to the shroud on



(Deposition of Jacob C. Gunderson.)

the inside? A. Yes.

Q. But were there any ratlins which were broken in part? A. Yes.

Q. Or which were missing in part? A. Yes.

Q. About how many?

A. I should say about 5 or 6 ratlins.

Q. They were gone entirely? A. Yes.

Q. That is, gone entirely in some places?

A. Yes.

Q. In what places were those ratlines gone entirely? They might, as I understand it, have been gone in three parts, that is to say, there were three parts of the ratlin up on the highest part of the ship?

A. Yes—there are four shrouds. [46]

Q. And between those four shrouds those ratlins run leaving three parts of the ratlins? A. Yes.

Q. How many of those ratlins were broken in part?

A. I think they were all broken in part, the five or six that I am talking about.

Q. Five or six were broken in part?

A. That is the best explanation I can give.

Q. When you say “broken in part” you mean that there was one of these three devices was gone?

A. Yes.

Q. Now, referring to this ratlin which you spoke of, Mr. Gunderson, suppose you draw a picture of that ratlin in particular?

A. Here is a ratlin; it was broken off here, as far as I can remember; the seizings were there—there might have been—but this is what I took particular notice of, they were rusted off.



(Deposition of Jacob C. Gunderson.)

Q. They were broken off in between here?

A. Yes.

Q. Will you mark those places where you have marked that with an X where they were broken?

A. Yes.

Q. At the places where they were broken?

A. Yes, right here. Here was a ratline gone, and it was hanging down this way, you see.

Q. It was hanging down that way; will you mark that one Y, where it was hanging down? A. Yes.

Q. Now, in regard to seeing the condition of the ratlins, what is the effect of this smoke on the ratlins?

A. Well, the smoke didn't affect the ratlins so much except—well, in the course of time it will, I suppose, but the seizings is what is affected mostly by the smoke.

Q. Now, Mr. Gunderson, do you mean to say that climbing up a [47] shroud that I could tell by looking at a ratlin whether it was going to break or not? A. No.

Q. I could not?

A. No, no. You see a ratline is here, and it is painted, and the seizing on here, and it is apt to look as well as this one here; this one may be almost new, and this one covered with paint, and this one also covered with black paint, and of course anything like that, you couldn't pay any particular attention to.

Recross-examination.

Mr. CAMPBELL.—Q. What you mean to say, Mr. Gunderson, is, then you could not tell whether

(Deposition of Jacob C. Gunderson.)

the seizing was good or not?     A. Yes.

Q. But you could tell whether or not a  $\frac{1}{2}$ -inch iron rod was rusted through, could you?     A. Yes.

Q. You have indicated on this drawing by "Y" the way you say that ratlin was tilted down?

A. Yes.

A. A moment ago you testified that you found one ratlin with one end hanging down about  $\frac{1}{2}$  an inch?

A. Yes.

Q. Here you are showing one as having a ratline that went down to a perpendicular position.

A. It doesn't make any difference.

Q. It makes a lot of difference to me.

A. Suppose the seizing is gone here, it then will get out of the seizing a little and hang below the seizing, that is all.

Q. So far as the end that you found tilted down on the outside is concerned—it was the end which had been seized to the outside shrouds, one of the outside shrouds?     A. Yes.

Q. That end was tilted down about  $\frac{1}{2}$  an inch?

A. Yes, hanging a little lower; just how much lower I could not say.

Q. What would you say, according to your best judgment? [48]

A. As far as I can remember, a little below the seizing.

Q. A little below the seizing?

A. About an inch or so.

Q. About an inch or so?     A. Yes.

Q. Do you remember stating shortly after this

(Deposition of Jacob C. Gunderson.)

accident to Mr. Toland at San Francisco, that it was down about  $1\frac{1}{2}$  an inch?

A. No, I don't remember just how much I said.

Q. Now, do you mean to tell me that these ratlins were rusted through, these  $\frac{5}{8}$  of an inch iron or steel rods were rusted through between the shrouds?

A. Yes.

Q. Do you think that smoke would rust a rod of that size through? A. No.

Q. When you talk about burning out, do you mean to say that the smoke or the heat from the boiler may burn out the seizings?

A. Yes; that is, I didn't say they were burned off; I said they were either rusted or burned off.

Q. Either rusted or burned off? A. Yes.

Q. Was the condition of these ratlines as you saw them clearly to be seen by you when you went up the shrouds? A. Yes.

Q. Any sailor going up the shrouds would, if he had exercised ordinary care, have seen the condition that you have testified to? A. No.

Q. Why not?

A. If a man was up here and this breaks with him and this is open, and if he is there before I go up, if they are in this condition before I go up, I will naturally see them.

Q. You will naturally see them? A. Yes.

Q. Do you think any sailor would have any difficulty in seeing them? A. No.

Q. You think that any sailor that went up the

(Deposition of Jacob C. Gunderson.)

shrouds ought to have seen them if they were in that condition?

A. Well, it is a known fact that a man could see it when he goes [49] up there.

Q. Now, then, all of these ratlins excepting this one that you have mentioned were in their original position, that is, horizontal, were they not?

A. Yes, as far as I can remember. I can't remember whether any of the seizings were gone in particular or not; but this is what I paid particular attention to, that they were rusted off.

Q. I know, but I am not speaking about that now; I am asking as to whether you are testifying that any of them were other than in a horizontal position?

A. They were, as far as I can remember.

Q. They were horizontal? A. Yes.

Q. That is their natural position, isn't it?

A. Well, that is the natural position if the whole ratline was there.

Q. I understand that, but that is the natural position in which they are laid across the shrouds, in a horizontal position? A. Yes, sir.

Q. And that was the position in which you found them? A. Yes.

#### Further Redirect Examination.

Mr. THACHER.—Q. What do you mean, Mr. Gunderson, by being able to see the condition of the ratlins; do you mean to say you could see them if they were gone? A. Yes.

Q. Is that all you mean?

(Deposition of Jacob C. Gunderson.)

A. Yes; I could see if they are gone, if I go up there.

Q. In other words, you could see them just as you could see the spokes of a ladder gone in case they are not there? A. Yes.

Q. But you do not mean that you could tell whether it was going to break or not? A. No, no.

Mr. THACHER.—I will offer this drawing in evidence as “Libelant’s Exhibit 2.”

(The drawing is marked “Libelant’s Exhibit 2.”)  
[50]

United States of America,  
State and Northern District of California,  
City and County of San Francisco,—ss.

I certify that in pursuance of the stipulation hereunto annexed, on February 13, 1915, before me, Francis Krull, a United States Commissioner for the Northern District of California, at San Francisco, at the office of T. A. Thacher, Esq., in the Merchants’ Exchange Building in the City and County of San Francisco, State of California, personally appeared Jacob C. Gunderson, a witness called on behalf of the libelant in the cause entitled in the caption hereof, and T. A. Thacher, Esq., appeared as proctor for the libelant and Ira A. Campbell, Esq., appeared as proctor for the respondents, and the said witness being by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in said cause, deposed and said as appears by his deposition hereto annexed.



I further certify that the said deposition was then and there taken down in shorthand notes by E. W. Lehner, and thereafter reduced to typewriting; and I further certify that by stipulation of the proctors the reading over of the deposition to the witness and the signing thereof was expressly waived.

Accompanying said deposition and annexed thereto and forming a part thereof are "Libelant's Exhibits 1" and *and* Claimants' Exhibit "A."

And I do further certify that I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the clerk of the United States District Court for the Northern District of California, for whom the same was taken.  
[51]

And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF I have hereunto set my hand at my office this 31st day of March, 1915.

[Seal] FRANCIS KRULL,  
U. S. Commissioner, Northern District of California,  
at San Francisco.

[Endorsed]: Filed May 14, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [52]



*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

(Before FRANCIS KRULL, U. S. Commissioner.)

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Claimants.

**Deposition of Henry Anderson, for Libelant.**

BE IT REMEMBERED, That on Saturday, May 8, 1915, pursuant to stipulation of counsel hereunto annexed, at the office of William Denman, Esq., in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Henry Anderson, a witness produced on behalf of the libelant.

T. A. Thacher, Esq., appeared as proctor for the libelant, and Ira A. Campbell, Esq., appeared as proctor for claimant, and the said witness having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.

(Deposition of Henry Anderson.)

(It is hereby stipulated and agreed by and between the proctors for the respective parties that the deposition of the above-named witness may be taken *de bene esse* on behalf of the libelant '[53]' at the office of William Denman, Esq., in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, on May 8, 1915, before Francis Krull, a United States Commissioner for the Northern District of California, and in shorthand by E. W. Lehner.

It is further stipulated that the deposition, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived. [54]

HENRY ANDERSON, called for the Libelant, sworn.

Mr. THACHER.—Q. Mr. Anderson, were you a sailor on the "Senator" at the time Hokanson was injured? A. Yes.

Q. How soon after he had fallen down did you see him? A. A couple of minutes.

Q. What did he say, if anything, as to the cause of his injury?

(Deposition of Henry Anderson.)

Mr. CAMPBELL.—I object to that as being hearsay.

A. I asked him how he happened to fall down, and he said the ratlin carried away.

Mr. THACHER.—Q. Where was he at the time he said this?

A. He was laying on the after hatch, No. 3 hatch.

Q. What was the condition of the ratlins and the shrouds of the mainmast?

Mr. CAMPBELL.—I object unless the witness is shown to have a knowledge of that.

A. I did not investigate it; I see from the deck that there was five, or six, or seven—I did not count them—on both sides, the ratlins were off in the middle.

Mr. THACHER.—Q. Off in the middle. You saw that from the deck? A. Yes.

Q. About how high up?

A. That was the upper ratlins.

Q. The upper ratlins? A. Yes.

Q. State whether or not you saw any hanging down.

A. Well, you know when they are off in the middle they are hanging down a little, just a little,—very little; you could just see the ends apart.

Q. Will you draw just how they were?

A. Not just—I could not say just how.

Q. Will you draw, not exactly how it was, but the way the shrouds looked?

A. Something like that; probably some of the ends did [55] not come quite together, and some the ends were a little passing by one another.

(Deposition of Henry Anderson.)

Q. Will you mark that A B? Where would the break be?

A. The break would be in the middle, exactly.

Q. So that A B would represent a ratlin?

A. Yes, sir.

Q. Then at C there would be a break?      A. Yes.

Q. How many ratlins—

Mr. CAMPBELL.—Let the witness testify.

A. Five, or six, or seven, I did not count them.

Mr. THACHER.—Q. Where would the shrouds be on that picture?

A. The shrouds on each end of the ratlin.

Q. That is at what?

A. The shrouds would be at each end of the ratlin.

Q. Would there be some other shroud, too?

A. I don't remember if there was one in the middle; I am not sure of that, I don't remember, but I think there was; I think there was four shrouds, altogether; yes, I think so.

Q. You spoke of some being missing. Will you point out, mark on that about where they were, just in a general way?      A. Ratlins missing?

Q. Yes, broken.

A. Well, that would be right up here, the upper ratlins; the ratlins go right up the mast; there is about one foot between each ratlin.      •

Q. Put an M there.

A. Right there; that is where the shrouds connect with the mast.

Q. Where would the seizings be here?

(Deposition of Henry Anderson.)

A. Each end, each shroud.

Q. At A and B?      A. Yes.

Mr. THACHER.—I will offer this in evidence as “Libelant’s Exhibit 1, Anderson,” and this as “Libelant’s Exhibit 2, Anderson.”

(The documents were marked “Libelant’s Exhibit 1, Anderson,” and [56] “Libelant’s Exhibit 2, Anderson.”)

Cross-examination.

Mr. CAMPBELL.—Q. There was considerable discussion between you and the other sailors on the “Senator” immediately after this accident, as to how it was caused, was there not?      A. Discussion, no.

Q. Was there not some talk?      A. Not much.

Q. Was there any talk?

A. Hardly, we were just wondering how he happened to fall down.

Q. You could not agree as to how it took place, could you?      A. No, we could not.

Mr. THACHER.—I make a motion to strike that out.

Mr. CAMPBELL.—Q. Do you remember signing a statement made before Mr. Towle, of the Pacific Coast Steamship Company?

A. Me signing it?

Q. Yes.      A. Yes.

Q. Do you remember stating this in the statement, that since Hoganson fell there had been more or less conversation regarding it among his shipmates at that time, but there was never any agreement between the members of the crew as to how they thought he



(Deposition of Henry Anderson.)

met his injury, or the cause of it, some suggesting one reason for his fall and some another?

A. Yes, that is right; that is the way it happened.

Q. Do you remember signing that statement?

A. Yes.

Q. You did not go aloft to examine this rigging?

A. No.

Q. On this photograph marked "Libelant's Exhibit, Anderson 2," you say that the ratlins were where?

A. The ratlins would be from the upper part of the shrouds and down a little ways to about here (showing).

Q. The ratlins are on the shrouds, on the after-mast?     A. Yes.     [57]

Q. Where did you stand at the time of the fall?

A. I was standing alongside of the mast.

Q. Alongside of the mast?     A. Yes.

Q. On this upper deck of the vessel?

A. On the upper deck, alongside of the mast.

Q. Not on top of the cabin, but on the main deck of the vessel?     A. On the top of the cabin.

Q. On the top of the cabin?     A. Yes.

Q. Does not the mast come down to the upper deck of the vessel?

A. Yes—the mast comes down to the lower deck of the vessel.

Q. Does it not come down to the deck of the vessel which I have marked A B?     A. Yes.

Q. It was on that deck you were standing?



(Deposition of Henry Anderson.)

A. No, I was standing on the upper deck, on the boat deck.

Q. You were standing on the boat deck?

A. Yes.

Q. But the hatch on to which Hokanson fell was on the deck that I have marked A B?      A. Yes.

Q. Standing on the boat deck, you say you looked aloft, did you?      A. I looked aloft.

Q. You saw some of the ratlins in what kind of a condition, would you call it, a burned condition?

A. That is what the boatswain was up there investigating for.

Q. I am asking you about your opinion—in a burned condition, or what would you call the condition?      A. I would call it burned condition.

Q. And the iron was what was burned?

A. Yes.

Q. Was it the seizing, or the iron?

A. The iron in the middle.

Q. Call that the mast and this the deck, your shrouds come down like that (illustrating)?

A. Yes.

Q. Your ratlins are across the shrouds?

A. Yes, that is it.

Q. As I have drawn them on this drawing?

A. Yes. [58]

Q. All the way down to the deck?

A. Yes, about two feet from the deck or three feet from the deck.

Q. I want to know if it is not a fact that these ratlins which you say were burned still extended across

(Deposition of Henry Anderson.)

in a horizontal condition when you looked at them?

A. Well, they extended in some condition, they were hanging down a little, just a little.

Q. How much?

A. I could not say how much they were hanging down; I was not up there; it was not much; it was hardly showing.

Q. You show me on this drawing I have made here, the lower part.      A. I could not just do it.

Q. You can use your best efforts at it.

A. Something like that.

Q. The line that I have marked A B on this drawing would indicate about the way the ratlins were?

A. Yes.

Q. Is it a fact that the ratlins were bent down at all as I mark the line A C, we will say—were they bent down that much?

A. No, they were not that much, but they were bent a little.

Q. How much would you say the center sagged, an inch or two?

A. An inch—I could not swear to those things.

Q. Your best judgment, Mr. Anderson.

A. That is my best judgment.

Q. You think that the center of the ratlin was probably an inch, about an inch lower than the outer ends?      A. I suppose so.

Q. How much of the ratlins was gone?

A. It is hard, standing on the deck, to see that.

Q. You said they were burned off, how much was gone?

(Deposition of Henry Anderson.)

A. It looked to be about half an inch, from the deck, something like that.

Q. Half an inch?

A. Yes; that is to say, an opening of half an inch.

Q. We will take the line that I am drawing, D to the line E, as representing one of these ratlins.

A. Yes.

Q. How much space was there between the inner ends of the ratlin, the ends that I have marked F G?

A. It looks about half an inch. [59]

Q. About half an inch?

A. Yes, you could hardly see it.

Q. That is, the distance between F and G representing the inner ends of the ratlins that were burned, there was about half an inch of ratline gone?

A. At the most, as I could make it out.

Q. Then, do I mark this correctly on this drawing "Half inch gone"—does that show it correctly?

A. Not correctly; I could not say correctly.

Q. According to your best judgment?

A. According to my best judgment, yes.

Q. Now, these ratlins that you saw from the deck that you think were in the condition that you have just described, were the ratlins that were immediately beneath the masthead?

A. Yes; the last ratlin ends about a foot from the top of the shroud—that is the last ratlin in the shroud.

Q. As I understood you to say, there were five or six ratlins from the top down which were in the condition which you have testified to? A. Yes.

(Deposition of Henry Anderson.)

Q. I will ask you what in your judgment is the seamanlike way for a man to go aloft, on shrouds and ratlins—what should he take hold of with his hands?

A. I was learned when I started to go to sea, to hold onto the shrouds, never hold onto the ratlins, with my hands.

Q. In your judgment as a seaman, would you consider it carelessness to take hold of the ratlins?

A. Yes.

Mr. CAMPBELL.—I offer this drawing in evidence as Claimant's Exhibit "A," Anderson.

(The document is marked "Claimant's Exhibit "A," Anderson.") [60]

United States of America,  
State and Northern District of California,  
City and County of San Francisco,—ss.

I certify that, in pursuance of the stipulation hereunto annexed, on Saturday, May 8, 1915, before me, Francis Krull, a United States Commissioner for the Northern District of California, at San Francisco, at the office of William Denman, Esq., in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared HENRY ANDERSON, a witness called on behalf of the libelant in the cause entitled in the caption hereof, and T. A. Thacher, Esq., appeared as proctor for the libelant, and Ira A. Campbell, Esq., appeared as proctor for the claimant, and that the said witness, being by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth

in said cause, deposed and said as appears by his deposition hereto annexed.

I further certify that the said deposition was then and there taken down in shorthand notes by E. W. Lehner, and thereafter reduced to typewriting; and I further certify that by stipulation of the proctors the reading over of the deposition to the witness and the signing thereof was expressly waived.

Introduced in connection with said deposition and referred to and specified therein, are Libellant's Exhibits 1 and 2, Anderson, and Claimant's Exhibit "A," Anderson.

And I do further certify that I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the clerk of the United States District Court for the Northern District of California, the court for which the same was taken. [61]

And I do further certify that I am not of counsel, nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF, I have hereunto set my hand at my office aforesaid, this 18th day of June, 1915.

FRANCIS KRULL, (Seal)

United States Commissioner, Northern District of California, at San Francisco.

[Endorsed]: Filed Jun. 18, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [62]



*In the District Court of the United States in and for  
the Northern District of California, First Division.*

(Before FRANCIS KRULL, U. S. Commissioner.)

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Claimants.

**Deposition of C. J. Hannah, for Claimant.**

BE IT REMEMBERED that on Saturday, May 29, 1915, pursuant to stipulation of counsel hereunto annexed, at the office of Messrs. McCutchen, Olney & Willard, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., C. J. Hannah, a witness produced on behalf of the claimants.

T. A. Thacher, Esq., appeared as proctor for the libelant, and Ira A. Campbell, Esq., appeared as proctor for claimants, and the said witness having been by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.



(Deposition of C. J. Hannah.)

(It is hereby stipulated and agreed by and between the proctors for the respective parties that the deposition of the above-named witness may be taken *de bene esse* on behalf of the claimants at the office of Messrs. McCutchen, Olney & Willard in the Merchants Exchange Building in the City and County of [63] San Francisco, State of California, on May 29, 1915, before Francis Krull, a United States Commissioner for the Northern District of California, and in shorthand by E. W. Lehner.

It is further stipulated that the deposition, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.) [64]

C. J. HANNAH, called for the claimants, sworn.

Mr. CAMPBELL.—Q. What is your business?

A. Seaman.

Q. Master mariner? A. Master mariner.

Q. Were you master of the steamer "Senator" on the 10th day of December, 1913, at the time a seaman by the name of Hokanson was injured on board of the "Senator"? A. Yes.

(Deposition of C. J. Hannah.)

Q. Where was the "Senator" at the time of that accident?

A. Just outside of Cape Flattery.

Q. What was the first that you knew of the accident?      A. The first officer told me.

Q. What did you do upon hearing of the accident?

A. I turned about and run for Neah Bay.

Q. Where is Neah Bay?

A. That is about 5 miles inside of Flattery, 4 or 5 miles.

Q. What is there at Neah Bay?

A. There is a Government Indian Reservation there, and life-saving station, and most always Government boat patrols outside there in winter time.

Q. The Government life-saving boat "Snohomish"?      A. Yes.

Q. What did you do on board your vessel aside from turning back to Neah Bay upon hearing of the accident?

A. I turned around and went aft; he was on the after hatch and I talked with him; I had them put him on a bed, a couch, and put in social hall.

Q. Did you hold any conversation with Hokanson at that time?      A. Yes.

Q. What, if anything, did he say as to how the accident occurred?

A. I asked him how it occurred and he said that he went up—the sail was caught and he went up to kick it down, and he swung around the rigging, and when he kicked the sail it started and he lost his hold; he did not have hold sufficient to hang on [65] be-

(Deposition of C. J. Hannah.)

cause it started so much easier than he thought it would.

Q. Did you have any communication with shore?

A. Wireless, that is all.

Q. What message did you send ashore?

A. I sent the message ashore that we were returning to Neah Bay and wanted medical attention; that we had a man fall from aloft who was badly hurt.

Q. You eventually arrived at Neah Bay?

A. Yes.

Q. What did you do after you got there?

A. We lowered one of the boats down to the rail and took him out and put him into this boat and lowered the boat down even with their boat, so it would not jar him, and they took him from our boat into the life-saving boat; the doctor came in and first examined him.

Q. The doctor from ashore?

A. Yes, he came aboard and examined him.

Q. Who brought the doctor out to the ship?

A. He came with the life-saving crew and went with them.

Q. Was there anything that you could have done for Hokanson, care of him while he was on board the vessel that you did not do?      A. No.

Mr. THACHER.—I object to that as leading.

Mr. CAMPBELL.—Q. In your judgment, Captain, was there anything omitted to be done that could have been done for the man while he was on board your vessel?      A. No.

(Deposition of C. J. Hannah.)

Q. State whether or not there was any delay in turning your vessel about and proceeding into Neah Bay.     A. No delay whatever. [66]

Q. What did you do with your vessel after you had placed the man in the care of the vessel from ashore?

A. I hove up our anchor and started back.

Q. What, if anything, was to be done with Mr. Hokanson after he reached shore?

A. Well, I put him in their care, the doctor's care and the life-saving crew, and I asked them to send him to the hospital as soon as they could.

Q. What hospital do you refer to?

A. Port Townsend, the Marine Hospital.

Q. United States Marine Hospital?     A. Yes.

Q. That is located where?

A. At Port Townsend.

Q. Neah Bay is in the State of Washington?

A. Yes.

Cross-examination.

Mr. THACHER.—Q. Captain, are you a seaman now?     A. Yes.

Q. Master mariner?     A. Yes.

Q. With what company are you?

A. Pacific Coast Steamship Company.

Q. How long have you been with the Pacific Coast Steamship Company?     A. About 17 years.

Q. You have been with them about 17 years?

A. Yes.

Q. Now, Captain, what time did this accident occur?

(Deposition of C. J. Hannah.)

A. After lunch, somewhere between one and 2; I could not say just exactly the time.

Q. Was it not about 3 o'clock?

A. I don't think it was at late as 3 o'clock.

Q. Over before the shipping commissioner, at least in filing your log, I notice that you signed a statement that it happened about 3 o'clock, I suppose that was correct, was it not?      A. 3 o'clock?

Q. 3 o'clock.

A. When the man fell from aloft?

Q. When the man fell from aloft? [67]

Mr. CAMPBELL.—Or when they reached Neah Bay.

Mr. THACHER.—The time of the accident?

A. I think you are mistaken; I don't think it was later than 2 o'clock.

Q. But if you did make an entry of that kind or sign an entry of that kind it would be correct, would it not?

A. Whatever was taken from the log-book was correct.

Q. If you entered upon the time in the log-book as 3 o'clock, it was correct?

A. Whatever is in the log-book is correct.

Q. So that at this time there is quite apt to be a difference of an hour or so—

A. — I would not say about that, but I know, of course, everything is put right in the log-book; there is an officer right there, and everything that occurs, that is put right down at the time in the log-book.



(Deposition of C. J. Hannah.)

Q. You would not sign it of course unless it was absolutely correct?

A. I would not sign it unless it was correct. But I think it was earlier than that.

Q. How long have you been on the "Senator," Captain?

A. At that time I had been only a couple of days.

Q. What boat had you come from?

A. On to her?

Q. Yes. A. The "City of Puebla."

Q. When did you come on board?

A. On the "Senator"?

Q. Yes.

A. I came on board—I don't just recollect the date.

Q. Two days before? A. Two days before.

Q. What had become of the old crew that had been on the "Senator"?

A. That I could not say. She had been laid up.

Q. Whereabouts was she laid up?

A. The first officer I think made the season on her; I would not be sure, but I think he was on her on the run to Nome. [68]

Q. She had been laid up quite awhile and then came on?

A. Ever since the Nome season she had been laid up; I am sure it was not a great while.

Q. Did you ever take the trip to Nome on her?

A. Yes, several of them.

Q. What kind of fuel do you burn on that boat?

A. Coal.



(Deposition of C. J. Hannah.)

Q. Where do you get at it?      A. At Seattle.

Q. Now, Captain, where were you standing at the time of the accident?

A. At the time of the accident, I did not see the man fall, I was on the bridge.

Q. You were on the bridge?

A. I was on the bridge.

Q. Who told you about it?

A. The first officer.

Q. How did he happen to tell you about it?

A. I suppose as soon as he saw the man fall he told me of it.

Q. Where did he tell you of it, on the bridge?

A. On the bridge.

Q. Then what did you do?

A. I turned the ship around.

Q. You turned the ship around?      A. Yes.

Q. And headed where?

A. Headed for Neah Bay.

Q. You did that as soon as the first officer told you?

A. Yes, as soon as he told me.

Q. What did he say?

A. He said a man fell from aloft and was very badly hurt.

Q. Then you turned her in from Neah Bay?

A. Yes.

Q. How did you happen to turn her in for Neah Bay?

A. Well, that is the nearest place for assistance.

Q. Had you ever been ashore there?      A. No.

(Deposition of C. J. Hannah.)

Q. How did you know that it was the nearest place for assistance?

A. I knew by wireless—I sent a wireless to see if I could get a doctor.

Q. You sent a wireless to Neah Bay?

A. To Tatoosh and they telephoned up. [69]

Q. And you got an answer that there was a doctor?

A. Yes.

Q. Any kind of a doctor?

A. That is something I could not tell you, what kind of a doctor he was; he was the doctor there for the Government Reservation.

Q. When you went in there did you understand what kind of a doctor he was—you just heard there was a doctor?

A. Word came that he was the doctor from the Government Reservation.

Mr. CAMPBELL.—Q. On the Indian Reservation?

A. On the Indian Reservation, yes.

Mr. THACHER.—Q. How large a reservation is that?

A. That I could not say.

Q. It might be very small, might it not?

A. There is quite a number of houses, but outside of that I could not say; I could not say what the population was.

Q. Just a few Indian houses?

A. There is quite a place there; there are miners there too. It is quite a place, but how large it is I don't know.

(Deposition of C. J. Hannah.)

Q. I mean the reservation itself?

A. That I could not tell; I know nothing at all about it.

Q. So that you simply got word that there was a doctor from some Indian reservation who was there?

A. There was only the one from the Indian reservation.

Q. Yes, but you say you don't know a thing about the Indian reservation. I don't suppose you do?

A. No.

Q. All you know is there was—

Mr. CAMPBELL.—I suppose that is a matter of public record, the size of the Indian reservation.

Mr. THACHER.—Q. So when you got word that there was a doctor from some Indian Reservation you immediately put your boat into Neah Bay; is that right? [70]

A. I was running for there when I got the word.

Q. So you did not go out of your way at all?

A. Certainly I did not go out of my way; that is where I was heading for; if I could not get any attendance there I would have gone further.

Q. Now, Captain, it was a pretty good day, was it not? A. A pretty good day?

Q. Yes, that afternoon.

A. Well, it is according to what you call a good day; I do not call it very good; it was raining, nasty mist and rainy.

Q. Simply a good deal of mist?

A. Nasty wintry weather, a little rain at times.

(Deposition of C. J. Hannah.)

Q. Rather cool, chilly.

A. Well, it was regular wintry weather up there; it is not very warm or very cold. It was not freezing at all.

Q. You say the mate told you that the man was badly hurt?     A. Yes.

Q. And so you directed the boat into Neah Bay?

A. Yes.

Q. Then you sent this wireless out—where did you send out this wireless from?

A. From the ship.

Q. But I mean what part of the ship?

A. I sent it from the wireless room.

Q. That is up forward, isn't it?

A. No, it is aft.

Q. You sent the message back?

A. I sent the message back to the wireless room.

Q. You stayed up there on the bridge for at least half an hour, didn't you?

A. I was on the bridge most of the time, I did not stay there all the time.

Q. You were on the bridge most of the time?

A. Yes, most of the time.

Q. When you headed her for Neah Bay you stayed there right along?     A. On the bridge? [71]

Q. Yes.

A. Didn't I tell you awhile ago I went aft and talked to the man on the hatch? I could not be down and talking to the man and be on the bridge too.

Q. I fully realize that, Captain, but I was trying to get at the length of time you stayed on the bridge.

(Deposition of C. J. Hannah.)

You stayed on the bridge quite a little time before you went aft?

A. I stayed on the bridge until I got turned around and straightened out and headed for Flattery.

Q. You stayed on the bridge until you sent this wireless, didn't you?

A. No. I sent the wireless afterwards, when I got her turned around and went and talked to the man on the after hatch.

Q. How long did it take you to turn the vessel around and get her straightened out?

A. I could not say; perhaps it might have been 5 minutes and perhaps it might have been 10 minutes; it could not be longer than 10 minutes; we turn around in 3 or 4 minutes.

Q. Where was Mr. Hokanson lying?

A. On the after hatch.

Q. When you say him how was he lying on the floor—I mean to say was he propped up at all, anything of that kind?

A. Of course he had something underneath his head; he was not propped up that I know of.

Q. You could see that he was in very serious pain?

A. I could see he was in pain—the man was in pain.

Q. And the most severe pain?

A. Very severe pain, no doubt about that.

Q. When you came aft what was the first thing that you said?

A. Well, now, I don't just remember the first thing; I remember the conversation, I don't remem-



(Deposition of C. J. Hannah.)

ber the first thing that I said to him.

Q. You don't remember the first thing that was said? [72]

A. I can't say that I remember the first thing; I remember what the conversation was.

Q. Who was there at the time?

A. The first officer and myself and some of the sailors.

Q. The sailors, I suppose, were the men who had arranged him and put props under his head and so forth?

A. I could not say who did it, I don't know.

Q. Was he talking when you came up?

A. Oh, yes.

Q. And he had been talking?

A. I don't know what he had been doing.

Q. He talked to you?

A. He talked to me. I asked him some questions and he answered.

Q. Did he say that when he got up and kicked the sail the first time that it fell down?

A. He said when he kicked it it fell.

Q. When he kicked it it fell?

A. It started and he went with it; he did not have hold enough to hold on.

Q. So according to this story he went up and the first kick he took the sail fell down?

A. I think the first kick, no doubt, because he said he could not kick it the second time because it was caught and the least thing started it.

Q. So it practically was not caught at all?

(Deposition of C. J. Hannah.)

A. It was caught enough to hold it up there.

Q. But he said that the sail was very little stuck?

A. Very little stuck, if that is the way you want to put it, very little stuck.

Q. So that when he just gave it a first kick it fell; is that right?     A. That is right.

Q. That is what he said, is it?

A. Yes; he did not say the first kick—no first to it; he said the minute he kicked it it started. [73]

Q. And he said when he kicked it it fell?

A. Yes.

Q. And that is all he said to you about it?

A. Yes, that is all he said, that he fell.

Q. Then, as I understand it, his conversation was, at least that part of it that you have testified to, that when he kicked the sail he fell?

A. I asked him if anything gave way and he said no; he swung around the rigging and when he kicked the sail it started and he fell.

Redirect Examination.

Mr. CAMPBELL.—Q. At that time did he say anything about losing his hold?

A. Yes, he had lost his hold.

Q. How far is it from Neah Bay to Port Townsend?

A. It is over 70 miles—I can tell you—it is 81 miles.

Q. Where was the ship in respect to Cape Flattery at the time of the accident?

A. It was outside of Cape Flattery.

Q. But whereabouts outside?

(Deposition of C. J. Hannah.)

A. I should judge about 3 or 4 miles outside, southward of Cape Flattery.

Q. On her course to San Francisco?

A. Yes. [74]

United States of America,  
State and Northern District of California,  
City and County of San Francisco,—ss.

I certify that, in pursuance of the stipulation hereunto annexed, on Saturday, May 29, 1915, before me, Francis Krull, a United States Commissioner for the Northern District of California, at San Francisco, at the office of Messrs. McCutchen, Olney & Willard, in the Merchants' Exchange Building in the City and County of San Francisco, State of California, personally appeared C. J. Hannah, a witness called on behalf of the claimants in the cause entitled in the caption hereof, and T. A. Thacher, Esq., appeared as proctor for the libelant, and Ira A. Campbell, Esq., appeared as proctor for the claimants, and that the said witness, being by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in said cause, deposed and said as appears by his deposition hereto annexed.

I further certify that the said deposition was then and there taken down in shorthand notes by E. W. Lerner, and thereafter reduced to typewriting; and I further certify that by stipulation of the proctors for the respective parties the reading over of the deposition to the witness and the signing thereof was expressly waived.

And I do further certify that I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the clerk of the United States District Court for the Northern District of California, the court for which the same was taken.

And I do further certify that I am not of counsel, nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the [75] cause named in the said caption.

IN WITNESS WHEREOF, I have hereunto set my hand at my office aforesaid, this 18th day of June, 1915.

FRANCIS KRULL, (Seal)  
United States Commissioner, Northern District of  
California, at San Francisco.

[Endorsed]: Filed Jun. 18, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [76]

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*In the United States District Court for the North-  
ern District of California, First Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Stipulation for Deposition and Deposition of P. I. Carter, for Respondent.**

IT IS HEREBY STIPULATED by and between the parties hereto that the deposition of P. I. Carter, a witness offered on behalf of respondents, may be taken before T. W. Holman, a notary public in and for the County of Jefferson, State of Washington, residing at Port Townsend, said county and state, upon the interrogatories hereunto annexed; and that the answers thereto may be taken down in long-hand or in shorthand and transcribed under the direction of the aforesaid officer taking the same; and that said deposition, when so taken and transcribed and signed by the witness and certified by the said officer taking the same, shall be returned to said United States District Court for the Northern District of California, at San Francisco, California, by registered mail, and may be read in evidence by either party. No objections to answers or to form of answers shall be waived.

AND IT IS FURTHER STIPULATED that said interrogatories and the answers thereto of the said witness so taken shall be deemed testimony given at the said trial and may be read, if either party be so advised, whether or not the method of taking the same shall comply with the provisions of the statute in such cases made and provided for the taking of depositions. [77]



Dated at San Francisco, California, June 14th,  
1915.

DENMAN & ARNOLD,  
Proctors for Libelant.  
McCUTCHEN, OLNEY & WILLARD,  
Proctors for Respondents. [78]

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*In the United States District Court for the North-  
ern District of California, First Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Direct Interrogatories to be Propounded to P. I.  
Carter.**

1. What is your profession?
2. How long have you been engaged in practice as a licensed physician and surgeon?
3. What, if any, connection did you have on and after the 10th day of December, 1913, with the United States Marine Hospital at Port Townsend, Washington?
4. Are you still connected with the United States Marine Hospital service at Port Townsend?
5. How long have you been in that service?
6. Did you at any time after December 10, 1913,

receive into your care as a physician and surgeon at the United States Marine Hospital at Port Townsend, Washington, one A. Hokanson who was injured while acting as a sailor on board the steamship "Senator"?

7. How was Hokanson brought to Port Townsend, if you know?

8. What was the condition of the man at the time he was received into the hospital?

9. Were any services rendered to him by you as a physician and surgeon of the United States Marine Hospital service?

10. If so, what services were so rendered?

11. What treatments were given or operations performed upon said Hokanson? [79]

12. How long did said Hokanson remain at the United States Marine Hospital at Port Townsend, Washington?

13. Under whose care as a physician and surgeon was he during his stay at said hospital?

14. How did he come to be discharged from the hospital?

15. When did he leave the hospital?

16. Where did he go, if you know, upon leaving the hospital?

17. What was the date that he left the hospital?

18. What was Hokanson's condition when he left the hospital?

19. Were any charges made to Hokanson or to the Pacific Coast Company or to the Pacific Coast Steamship Company for the services rendered Ho-

kanson at said United States Marine Hospital?

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondents. [80]

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*In the District Court of the United States, in and for  
the Northern District of California, First Di-  
vision.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libellant,

vs.

PACIFIC COAST COMPANY, a Corporation, and

PACIFIC COAST STEAMSHIP COM-

PANY, a Corporation,

Respondents.

**Cross-interrogatories to be Propounded to P. I.  
Carter.**

1. Have you finished answering all the direct in-  
terrogatories propounded to you?

2. When did you first learn what was contained  
in all or any part of the interrogatories? State as  
nearly as possible the exact time.

3. How did you learn what was in them or in part  
of them?

4. Who showed them to you?

5. Have you conferred with anyone regarding  
these interrogatories?

6. If so, with whom?

7. When?

8. What did he say? If more than one, what did  
each of them say?

9. What did you say?
  10. Have you received any writing from anyone regarding these interrogatories?
  11. If so, attach copies of all said writings to these interrogatories.
  12. What time is it?
  13. What time did you answer your first direct interrogatory? [81]
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*In the United States District Court for the Northern  
District of California, First Division.*

IN ADMIRALTY.

AXEL HOKANSON,

Libellant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Answer to Direct Interrogatories Propounded to P.  
I. Carter.**

Answer to  
Question  
Numbered:

1. Physician and surgeon.
2. Since June, 1907, continuously.
3. A. A. Surgeon, United States Public Health Service on duty at Marine Hospital, Port Townsend, Washington.
4. I am.
5. Since the fall of 1907.
6. I was one of the physicians who received him

into care at that place; whether or not he was injured on the steamship "Senator" is a matter of report only to me.

7. He was brought there on the U. S. Rev. Cutter "Snohomish."

8. Fracture of the middle third of the right femur; deep bruise of right hip and side; tenderness on deep pressure across abdomen; bruise of calf of left leg; right knee and ankle swollen and tender, small deep wound in thigh, right thigh.

9. Yes.

10. Dr. Earle, of the same service, and I dressed all wounds and applied proper dressings to leg.

11. "Buck's Extension" was applied to the leg and wounds were thoroughly cleansed and dressed.

12. From December 11th, 1913, to May the 5th, 1914.

13. Dr. B. H. Earle and I. [82]

14. At his own request.

15. May the 5th, 1914.

16. I don't know; I heard that he was taken to San Francisco.

17. May the 5th, 1914.

18. His condition was greatly improved, but there was not complete bone union of the fracture.

19. No charges.

P. I. CARTER,

Witness.

**Answer to Cross-interrogatories Propounded to P. I.  
Carter.**

1. Yes.

2. Immediately on beginning to answer the direct



examination, about fourteen or fifteen minutes ago, I should say.

3. The commissioner, T. W. Holman, read them to me for answer after having sworn me to testify truly.

4. They have not yet been shown, but have been read to me by the commissioner T. W. Holman.

5. No.

6. No one.

7. Nothing.

8. Nothing.

9. Nothing.

10. None at all.

11. None to attach.

12. Two minutes of ten A. M., June 19th, A. D. 1915, at Port Townsend, Jefferson County, Washington, before Commissioner T. W. Holman.

13. About twenty-five minutes of ten A. M., June 19th, A. D. 1915, at Port Townsend, Jefferson County, Washington, before above stated Commissioner examining me.

P. I. CARTER,

Witness. [83]

*In the United States District Court for the Northern  
District of California, First Division.*

IN ADMIRALTY.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Certificate Regarding Deposition of P. I. Carter.**

State of Washington,  
County of Jefferson,—ss.

I, Tom W. Holman, the undersigned notary public in and for the State of Washington, duly commissioned and sworn, do hereby certify that pursuant to the stipulation in the above-entitled matter in the above-stated court providing that the deposition of P. I. Carter of Port Townsend, Jefferson County, Washington, be taken before me upon the interrogatories thereunto annexed, which stipulation with said interrogatories is hereunto attached,—I did on the 19th day of June, A. D. 1915, at my office in Suite 1 & 2, Tucker Building, in the City of Port Townsend, Jefferson County, Washington, after summoning the said P. I. Carter to attend before me and after payment to him on demand of one day's witness fees, \$2 and mileage, 2 miles @ 10¢, as provided for by statute in this State, receipt for which pay-

ment is also hereunto attached, duly swear the said P. I. Carter to tell the truth, the whole truth and nothing but the truth concerning all interrogatories annexed and to be answered; that thereupon each direct interrogatory, as stated in the foregoing attached interrogatories, was read to him and his answer thereupon taken down in longhand by me and transcribed under my direction and by me personally, and in like manner each cross-interrogatory, as stated in the foregoing and attached cross-interrogatories, [84] was read to him and his answer thereupon taken down in longhand by me and transcribed under my direction by me personally; that after the said answers had been fully given by the said witness P. I. Carter, each interrogatory with its answer was read to him, and upon his declaring that there are no mistakes or omissions I caused him to subscribe his name to and at the end of each the answers to said interrogatories and said cross-interrogatories, and that thereupon I thereunto attached this certificate and in such form herewith submit the same to the above-stated Court.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 19th day of June, A. D. 1915, at Port Townsend, Jefferson County, Washington.

[Seal] TOM W. HOLMAN,  
Notary Public in and for the State of Washington,  
Residing at Port Townsend in said County of  
Jefferson.

**COSTS AND CHARGES OF DEPOSITION:**

One day's witness fee to witness P. I.

Carter, @ \$2.00 provided by statute in Washington for attendance on State Court, and mileage, 2 miles @ 10¢ likewise so provided, as per attached receipt.....\$ 2.20

Commissioner's charges for summoning witness, administering oath and conducting examination ..... 7.50

Cost of having testimony reduced to typewritten form and of the above certificate, @ 20¢ per folio..... .80

(Seal) Total.....\$10.50

Postage of mailing registered as per stipulation, see cover on envelope addressed to clerk for amount.... .16

Total cost.....\$10.66

**TOM W. HOLMAN,**

Attorney and Counselor at Law, Port Townsend, Washington.

June 19th, 1915.

Received of Tom W. Holman the sum of two dollars and twenty [85] cents (\$2.20) for 1 day's witness fees and 2 miles at 10¢ before Tom W. Holman in attached matter.

[Seal]

P. I. CARTER.

[Endorsed]: Opened by order court and filed Sep. 11, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [86]

**Deposition, etc. of C. L. Woods, for Respondents.****W. W. WASHBURN AND SON**

Post Traders

Dealers in all Kinds of Fresh Fish, Indian  
Baskets and Curios.

Neah Bay, Wash., ——— 191—.

Personally appeared before me this 21st day of June, 1915, Dr. C. L. Woods, who upon oath says that the answers given by him to the foregoing questions are correct and true to the best of his knowledge and belief.

[Seal]

Dr. C. L. WOODS.

Subscribed and sworn to before me this 21st day of June, 1915.

W. W. WASHBURN. Jr.,

Neah Bay, Wash. [87]

*In the United States District Court for the Northern  
District of California, First Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Stipulation for Deposition.**

IT IS HEREBY STIPULATED by and between



(Deposition of C. L. Woods.)

the parties hereto that the deposition of C. L. Woods, a witness offered on behalf of respondents, may be taken before W. W. Washburn, Jr., a notary public in and for the County of Clallam, State of Washington, residing at Neah Bay, said county and state, upon the interrogatories hereunto annexed; and that the answers thereto may be taken down in longhand or in shorthand and transcribed under the directions of the aforesaid officer taking the same; and that said deposition, when so taken and transcribed and signed by the witness and certified by the said officer taking the same, shall be returned to said United States District Court for the Northern District of California, at San Francisco, California, by registered mail, and may be read in evidence by either party. No objections to answers or form of answers shall be waived.

AND IT IS FURTHER STIPULATED that said interrogatories and the answers thereto of the said witnesses so taken shall be deemed testimony given at the said trial, and may be read, if either party be so advised, whether or not the method of taking the same shall comply with the provisions of the statute in such cases [88] made and provided for the taking of depositions.

Dated at San Francisco, Cal., June 14th, 1915.

DENMAN & ARNOLD,

Proctors for Libelant.

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondents. [89]

*In the United States District Court for the Northern  
District of California, First Division.*

IN ADMIRALTY.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Direct Interrogatories to be Propounded to C. L.  
Woods.**

1. What is your profession? Supt. and Physician, Indian Agency.

2. How long have you been a licensed and practicing physician and surgeon? Since 1894.

3. Where were you living on or about the 10th day of December, 1913? Neah Bay, Washington.

4. If you have stated that you were residing at Neah Bay, Washington, state whether or not you were there practicing your profession as a physician and surgeon. Yes.

5. State whether or not, as a physician and surgeon, you were connected with any government service. Yes, Indian service.

6. If so, what service and what was your connection with the same? U. S. Indian service, as supt. and physician.

7. State whether or not on or about said 10th day

of December, 1913, you received into your care an injured man from the steamship "Senator." Yes.

8. If so, what was the name of such injured man?

A. Hokanson.

9. What were the first advices received by you that an injured man was being brought to the Port of Neah Bay by the steamship "Senator"? By a telegram from Tatoosh Island.

10. From whom did you receive such advices? From telegraph operator. [90]

11. Did you proceed out to the steamship "Senator"? Yes.

12. If so, where did you meet her? At the entrance to Neah Bay.

13. Who took you out? The life-saving crew.

14. Did you receive the injured man into your care? Yes.

15. If so, when and how? At above-named date, from officers of steamer.

16. How was the injured man brought ashore from the steamship "Senator"? On the life-saving boat.

17. From what injuries was the man suffering? Broken femur.

18. What treatment and services, if any, did you give to the man after he came under your care and attention? Temporary dressing aboard steamer, ashore, anaesthetic and reduction of fracture, and fixation with splint.

19. Where did you care for him? At the life-saving station.

20. How long did you keep him under your care and attention at Neah Bay? Until put aboard the life-saving tug "Snohomish" the same day.

21. What became of the man? Taken to Marine Hospital, Port Townsend.

22. If you say that you sent him away, state the place to which you sent him and the means by which he was sent. To Port Townsend, Wash., by steamer "Snohomish."

23. If you say that he was sent by the steamer "Snohomish," state what that vessel was and in what service she was engaged and where she was stationed. U. S. Revenue Cutter Service, life-saving tug and revenue cutter, stationed at Neah Bay.

24. What was the condition of the injured man during the time that you had him under your care and attention? Nervous, result of shock otherwise apparently healthy.

25. State whether or not in your judgment as a physician and surgeon anything else could have been done for him, other than that [91] which you did, while he was in your care? No.

McCUTCHEN, OLNEY & WILLARD.

Proctors for Respondents. [92]

*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSEN,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Cross-interrogatories to be Propounded to C. L.  
Woods.**

1. Have you finished answering all the direct inter-  
rogatories propounded to you? Yes.

2. When did you first learn what was contained  
in all or any part of the interrogatories? State as  
nearly as possible the exact time. June 21st, 1915.  
8:15 P. M.

3. How did you learn what was in them or in part  
of them? By them being read to me.

4. Who showed them to you? No one.

5. Have you conferred with anyone regarding  
these interrogatories? No.

6. If so, with whom? No one.

7. When? ———

8. What did he say? If more than one, what did  
each of them say? ———

9. What did you say? ———



10. Have you received any writing from anyone regarding these interrogatories? No.

11. If so, attach copies of all said writings to these interrogatories.

12. What time is it? 8:27 P. M.

13. What time did you answer your first direct interrogatory? About 8:15 P. M. or 8:16 P. M.

[Endorsed]: Opened by order Court and filed Sep. 11, 1915.

W. B. MALING,  
Clerk.

By C. W. Calbreath,  
Deputy Clerk. [93]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

Before Hon. MAURICE T. DOOLING, Judge.

No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

WEDNESDAY, SEPTEMBER 22, 1915.

COUNSEL APPEARING:

For the Libelant: T. A. THACHER, Esq.,

For the Respondents: F. P. GRIFFITHS, Esq.

Mr. THACHER.—This is a libel *in personam*,

your Honor, brought against the Pacific Coast Steamship Company and the Pacific Coast Company, for injuries to a seaman on the 10th of December, 1913. Between the libel and the answer, many of the facts are admitted, and those facts I shall call your attention to.

It is admitted that the Pacific Coast Company is a New Jersey corporation; that the Pacific Coast Steamship Company is a California corporation; that on or about December 10, 1913, the libelant, that is, Hokanson, was hired by the Pacific Coast Steamship Company to perform services as a seaman on the steamship "Senator," which is agreed under the pleadings to be operated and controlled [94] by the Pacific Coast Steamship Company; that on December 10th of that year, the "Senator" left Victoria, British Columbia, on a voyage to San Francisco; that pursuant to the employment, the libelant Hokanson, was on board the "Senator," acting as seaman; that the mainsail of the "Senator" was up when the steamer left Victoria; that in the afternoon, when the steamer was on the high seas off Cape Flattery, that is, down near the heads leading to the Pacific Ocean, the boatswain of the steamer, who was employed by the Pacific Coast Steamship Company, and who was commanding the libelant, was superintending the lowering of the mainsail; it is agreed that the sail refused to come down; it is further agreed that the libelant climbed the shrouds, the ratlins on which are admitted to be 12 inches apart; that is to say, it is admitted he climbed up ratlins about 12 inches apart,

which traversed the shrouds horizontally, forming the steps of a ladder for going aloft; it is admitted that he climbed the shrouds, using the steps as aforesaid, and that he fell down and suffered severe injuries;

The first allegation of the defense, that is, so far as it appears from the answer, is that the libellant Hokanson climbed the shrouds voluntarily, without any orders whatsoever to do so, and that when he reached a position near the eyes of the rigging, some 40 feet up from the deck, he stood on the sail. The sail, it is admitted by the pleadings, stuck; as a matter of fact, the sail was furled on the mainmast of this ship "Senator" and it was desired to get it up. The answer sets out that the libellant, in attempting to loosen said sail by going aloft on the shrouds and ratlins of said steamer, by removing both feet from the ratlins—as I say, the ratlins are these cross beams, like rungs of a ladder—and by holding onto one of said shrouds with one [95] hand only and swinging himself bodily away from said shroud and said ratlins, and jumping on said trysail, as aforesaid, assumed the risk incident to such employment. That is to say, the answer sets out that when the libellant reached a point at which he was going to free the sail, that he used one hand to hold onto the shroud and then he jumped on the sail, jumped over on the sail that he was trying to loosen with both feet; he was trying to bring the sail down, and the sail gave way. We shall show that he did not do this, and moreover, a reading of the pleading shows that a man who would jump on a sail 40 feet above the deck in

an attempt to lower it, holding on with one hand, would be practically inviting suicide; the very thing that he was trying to do, that is, the lowering of the sail, would be what would cause him to fall; we shall show your Honor that the "Senator" was a ship which had been employed in the Nome trade, running from Seattle to Nome during the summer of 1913; that it had been laid up; that the libelant went north on the steamer "President" and was transferred over from the "President" to the "Senator"; that when they went on the "Senator" they had every reason to believe the ship was in first-rate shape; that the first day after leaving Victoria, the libelant was ordered up by the boatswain because the sail stuck, because it refused to come down; that he went up in pursuance to orders; that after first attempting to loosen the sail from the outside of the shrouds, he climbed around to the inside of the shrouds, a perfectly seamanlike performance, because they always work on both sides of the shrouds, and that he touched it, or gave a slight kick to the sail, that being the only way he could reach it; that he had hold of the shrouds with both hands; that at the moment he kicked the sail, the ratlin on which he was standing gave way, broke, and that as a result of [96] that he fell down to the deck; that after falling down to the deck he made known what had happened, in the way that the ratlin had carried away, that being really a part of the accident which is the whole essence of this complaint; that as a result of this accident, he was taken to Port Townsend Hospital, where he stayed from December to May, in great suffering;

(Deposition of C. L. Woods.)

that he then returned to San Francisco and after a day or two in the hospital was taken home; that again in July he went to the hospital and was re-operated on; that he left the hospital again in October; that he is a permanent cripple as a result of this injury, and unfitted to earn any real compensation whatever, and that the whole matter was a result of sending out a ship that should have been seaworthy, from Seattle, in an absolutely unfit condition, in a condition where the rigging was poor; apparently, it had not been inspected; and that as a result of this failure of operation of the ship, the accident happened, and the man was doomed to great suffering and injury. In this connection I will read from a few depositions which I shall offer, because I should like to have your Honor obtain a complete understanding of this case at the end of the trial, and not simply wait for briefs which ultimately turn up. I wish to call your Honor's attention to what has been said in the depositions. I will first read from the deposition of a sailor named Jacob C. Gunderson.

“Q. Mr. Gunderson, what voyages did you take on the ‘Senator’ in December, 1913?

A. From Seattle to San Francisco—is that what you mean?

Q. Yes. A. From Seattle to San Francisco.

Q. You say you took a voyage? A. Yes.

Q. When did you take your first voyage?

A. The first was— I joined her on the 8th of December. [97]



(Deposition of C. L. Woods.)

Q. Was Mr. Hokanson a seaman at that time?

A. Yes.

Q. What was your capacity?      A. Seaman.

Q. On that first voyage, when the 'Senator' was off Cape Flattery, what was done with the mainsail?

A. They were trying to lower it down.

Q. What did Hokanson do?

A. He went up aloft to see whether he could get it down or not, because we were unable to get it down from the deck.

Q. How did he happen to do this?

A. Well, being unable to get the sail down from the deck, he was told by the boatswain to go up and see what was wrong with it. Is that what you mean?

Q. Yes, how he happened to go up.

A. He went up at the boatswain's order.

Q. Did you hear him give Mr. Hokanson this order?      A. Yes.

Q. What did he say?

A. He said, 'Go up to see what is the matter with it, Al.'

Q. Did you see Hokanson after he got aloft?

A. Yes.

Q. What side was he on?

A. He was on the port side.

Q. What was he doing when you saw him aloft?

A. Well, I saw him standing up there; I did not see him doing anything in particular at that time, because I went around on the other side and tried to pull on it.

Q. How far up was he?

(Deposition of C. L. Woods.)

A. He was right up to the upper ratlins.

Q. Did he have hold of anything?

A. He had hold of something when I saw him, standing in the rigging, he had hold with one hand.

Q. What did he have hold of?

A. Well, I can't remember; I didn't take any particular notice of that, but I saw he had his hand extended a little, or raised up a little; I supposed he had hold of the shroud or some tackle, I don't know what it was." [98] Then he drew a picture, which is among the papers. That, your Honor, gives an idea of the testimony which is taken on deposition. I think I will read from Mr. Anderson's testimony, also.

Mr. GRIFFITHS.—Your Honor, can the entire deposition be considered in evidence?

Mr. THACHER.—I will offer this deposition of Jacob C. Gunderson and S. A. Peterson, and of Henry Anderson. I shall also read from the deposition of another sailor, Henry Anderson, which will bring out quite similar evidence, and to some extent throw some light upon the facts. In this deposition there is a picture of the "Senator," which is here as an exhibit. I offer that as Libelant's Exhibit 1.

Mr. GRIFFITHS.—When was that picture taken, Mr. Thacher?

Mr. THACHER.—I don't know; I think it was taken about seven or eight months ago. I will call as my first witness Mr. Martin.

**Testimony of Robert Martin, for Libellant.**

ROBERT MARTIN, called for the libellant, sworn.

Mr. THACHER.—Q. Mr. Martin, what is your occupation?     A. Seaman.

Q. What boat are you on?

A. On the steamer "Queen."

Q. What was your occupation in December, 1913?

A. I was deck boy on the "Senator."

Q. You remember the day that Mr. Hokanson fell down?     A. Not exactly.

Q. I do not mean the exact date; I mean to say you remember that Mr. Hokanson did fall down?

A. Yes.

Q. Do you remember the sail being up?

A. Yes.

Q. Will you explain, as fully as you can, to the Court anything you know about how Mr. Hokanson happened to go up to free the sail— [99] was the sail stuck?

A. Yes. Mr. Hokanson was sent aloft.

Q. Who sent him aloft?     A. The boatswain.

Q. Did you hear the boatswain give the order?

A. Yes, I did.

Q. What did the boatswain say?

A. He says, "Axel, go aloft and clear the sail."

Q. "Go aloft and clear the sail"?     A. Yes.

Q. Where were you standing then?

A. I was engaged in cleaning the scupper blocked with coal dust, with small pieces of coal on the starboard side of the mainmast.

(Testimony of Robert Martin.)

Q. Who else was near you?

A. Mr. Gunderson, the boatswain, and a winch driver.

Q. Who was the winch driver?

A. Heine, they called him; that is the only name I knew him by.

Q. Do you remember whether or not it was Anderson? A. Anderson, yes.

Mr. GRIFFITHS.—Q. Do you know that that is his name? A. I am not positive now.

Mr. THACHER.—Q. Who was working on the sail? A. Mr. Hokanson.

Q. How was the sail set, I mean to say, how did it look from the deck?

A. It was all bunched up like, behind the mainmast, and it was up to the upper part of the rigging.

Q. What was the next that you heard or saw thereafter, after Hokanson had gone up?

A. I went over and helped them, Gunderson and Anderson and the boatswain.

Q. What were you all doing?

A. We were standing at the lower part of the sail, hanging onto it, trying to give a hand to haul it down.

Q. You were hanging onto the sail, itself?

A. Yes, the lower part of it. [100]

Q. Then what happened?

A. The sail came down all at once; Gunderson stumbled to one side, and just then I looked up and seen Mr. Hokanson was falling.

Q. Did he strike anything on the way down?

(Testimony of Robert Martin.)

A. Not that I know of.

Q. Where did he fall to?

A. He fell to the hatch, No. 3 hatch.

Q. What was his condition when you saw him after he had fallen?

A. He was lying there on the port side of the boom; he seemed unable to move.

Q. Was he groaning?      A. Yes.

Q. What did you hear him say, if anything?

A. Why, at the time the captain was there he told him that everything was rotten aloft.

Q. Mr. Martin, did you ever see anything which had any appearance of having fallen down from the rigging after that accident?

A. Yes; about seven o'clock the next morning, between six and seven, we were washing down the decks, and I picked up a small piece of sort of bunting that was under the seizing, between the wire and the seizing; the shrouds and the seizing.

Q. Where did you pick it up?

A. On the port side of the same rigging that Mr. Hokanson went aloft on.

Q. How was it in regard to the position—you say it was on the port side—how close was it to the shrouds Mr. Hokanson had been up on?

A. Well, there is a sort of gangway there to the hatch; it was on the forward part; it was right near the rigging, about three feet away.

Q. Now, looking at this photograph here, where, approximately, did you pick this up?

A. You can't see the port side there.



(Testimony of Robert Martin.)

Q. It was under where?

A. On the other side, on this section here; you see, opposite from here, where that line comes down, on the other side. [101]

Q. I will ask you a leading question: Was it at a place where it might have fallen from where Mr. Hokanson was standing? A. Yes.

Q. Will you describe what that piece of bunting was; I mean to say, how it looked, how large it was, and whether it had any marks on it?

A. Well, it was somewheres about two inches square.

Q. What was it made of?

A. An ordinary gunny-sack.

Q. Was there any tar about it, or anything that suggested the rigging to you in that?

A. It had an impression of the shroud.

Q. It had an impression of the shroud?

A. Yes.

Q. Had you ever seen anything like it before?

A. No, I had not.

Q. You had not ever picked up a similar piece of gunny-sack? A. No.

Q. What was the condition of the ratlins as you could see them?

Mr. GRIFFITHS.—I object to the question unless it is shown that he had observed the ratlins and noted them.

Mr. THACHER.—Q. State whether or not you looked up at the ratlins after Mr. Hokanson had fallen? A. Yes,

(Testimony of Robert Martin.)

Q. What was their condition?

A. I seen there were three of them that were missing in the middle, between the two middle shrouds—between the two middle shrouds there was no ratlin at all.

Q. On what side of the mainmast was that?

A. The port side.

Q. About where on the port side?

A. It was right near the top of the rigging.

Cross-examination.

Mr. GRIFFITHS.—Q. You say that you saw three ratlins missing, Mr. Martin? A. Yes.

Q. That was perfectly easy for you to see from the deck, was it? A. Yes.

Q. Did you pick up any ratlins around on the deck afterwards? You spoke of a piece of bunting. Did you pick up a ratlin? [102]

A. No, no ratlins, a piece of bunting.

Q. Just a piece of bunting? A. Yes.

Q. What are the ratlins made of, do you know?

A. I don't know nothing about the top ratlins, but the lower ones are made out of a sort of iron pipe, or a solid piece of iron, some of them.

Q. Made of iron, are they? A. Yes.

Mr. THACHER.—Q. What became of that piece of bunting that you had?

A. Why, I left the steamer the trip after that, and I came to San Francisco, and I made a round trip up to Victoria, and I left the steamer there, and I left that also on board.

(Testimony of Robert Martin.)

Mr. GRIFFITHS.—If your Honor please, I have two witnesses here, and Mr. Thacher has kindly consented that I may put them on instead of keeping them.

**Testimony of W. H. Banks, for Respondent.**

W. H. BANKS, called for the Respondent, Sworn.

Mr. GRIFFITHS.—Q. You are a practicing physician and surgeon here in San Francisco, are you?

A. Yes, I am.

Q. What institution are you a graduate of?

A. Cooper.

Q. Cooper medical college? A. Yes.

Q. Are you the physician and surgeon of the Pacific Coast Steamship Company? A. I am.

Q. Did Mr. Hokanson, whom you saw in court here, come under your attention at some time during the year 1914? A. He did.

Q. At what time?

A. I saw him first on May 9th.

Q. Under what circumstances, Doctor?

A. He was at the marine hospital with a fracture of the thigh.

Q. At whose instructions did you go to see him?

A. Mr. Barry.

Q. Who was Mr. Barry?

A. Mr. F. M. Barry is the claims agent of [103] the Pacific Coast Steamship Company.

Q. What instructions did you have from Mr. Barry, if any, with regard to this man or the care, if any, which you should show him?

(Testimony of W. H. Banks.)

A. He wanted me to examine the case and report conditions.

Q. What conditions did you find?

A. I found what had evidently been a fracture of—I believe, I do not recall right now, the right or left leg—I cannot recall on the spur of the moment—the right thigh.

Q. Was fractured?      A. Yes.

Q. What did you do for Mr. Hokanson, if anything?

A. I reported the conditions, as I found them, to the company, and was asked to advise them, and I advised them that under the circumstances I thought it would be better for Mr. Hokanson to take a few weeks at home, in other words, to recuperate, to see if there might not be a more firm union of the fractured bone.

Q. I take it from what you have said that at that time there was not a firm union: Is that correct?

A. There was a partial union, but not complete.

Q. Did Mr. Hokanson take a rest to recuperate for that period of time, for a number of weeks?

A. He did.

Q. What did you advise at the end of that time, if anything?

A. I saw him again on June 1st, 1914, at his home in Berkeley, and inasmuch as there was not much more firmness to the union of the bone, I advised that he had better go back to the city, to the Lane Hospital, and have an operation performed, in an endeavor to

(Testimony of W. H. Banks.)

get it in better apposition.

Q. Was he then taken to the Lane Hospital?

A. We first had an X-ray taken to determine the actual condition; the company did this, took him to an X-ray man in Berkeley.

Q. Was he thereafter taken to the Lane Hospital?

A. He was thereafter taken to the Lane Hospital.

[104]

Q. Was an operation performed? A. It was.

Q. By whom?

A. It has been my policy to call in as assistant some specialist and I called in Doctor Pope.

Q. Who is Dr. Pope, a physician of some kind?

A. He is a surgeon here in the city.

Q. Did Dr. Pope perform the operation?

A. Dr. Pope performed the operation and I assisted him.

Q. Was the operation successful?

A. As an operation, yes.

Q. What was the result of the operation?

A. Do you mean what was done?

Q. No, I will ask you this question: Did the man thereafter remain in the Lane Hospital for some time?

A. He was there for 105 days.

Q. What progress did the leg make during that time? A. Slow, but gradual progress to a union.

Q. There was a progress toward union, was there?

A. There was.

Q. I will ask you whether that progress was or



(Testimony of W. H. Banks.)

was not as rapid as could be expected under the circumstances?

A. Well, that is difficult to say, considering the age and the conditions that were there before, the progress was not as rapid as we would wish to see it.

Q. What happened to Mr. Hokanson after being in the hospital for 105 days?

A. I advised that he go home and keep under observation, with the idea simply of the advisability of his being at home and getting around out of the hospital, and so on.

Q. Did you have him taken home?      A. I did.

Q. Where does he live?      A. In Berkeley.

Q. Was he there under your care?      A. Yes.

Q. And he understood he was still under your care?      A. Yes.

Q. Did you have instructions or authority from the company still to keep supervision over him?

A. Yes. [105]

Q. Did you ever have orders from the company to refuse him attention?      A. I did, yes.

Q. You did have orders to refuse him attention?

A. Yes.

Q. Under what circumstances?

A. Well, I saw him on December 6, 1914, and he complained of a plate that was hurting him, and I advised that he had better come back to the hospital and if necessary remove the plate, and his disposition was not exactly to do that; he said he had hospital enough; then I told him that he had better have an X-ray taken to see the condition. I reported to

(Testimony of W. H. Banks.)

the company and was advised by them to have it taken, to write Mr. Hokanson a letter, which I did, but I got no report, no answer from him; I telephoned and was told over the 'phone that they had not decided what to do, but they would notify me later; I was never notified. Then I reported to the company, asking what I had better do, and they said to let things rest as they were.

Q. Until you should hear from him again?

A. Until I should hear from him. I don't know whether that was said specifically; that was understood.

Q. Was it or was it not understood that you were to be at Mr. Hokanson's disposition in case he should call for you?     A. Absolutely.

Q. I will ask you Doctor, whether or not, in your judgment as a physician and surgeon there was anything that could have been done for Mr. Hokanson to improve his condition while under your care and under that of Dr. Pope, that was not done?

A. None that I have in mind at the present time, no. I will qualify that by saying that Dr. Pope was the surgeon; Dr. Pope could answer that better than I.

Q. Did the Pacific Coast Steamship Company remunerate you for [106] your services in this connection?     A. They did.

Q. What payments did they make to you?

A. I was paid for the first examination at the Lane Hospital, and I was afterwards paid for the operation and attention subsequent to the operation.

(Testimony of W. H. Banks.)

Q. Do you recall in what amount?

A. I received a check of \$7.50 for the examination at first, and \$250 for the operation and attendance.

Cross-examination.

Mr. THACHER.—Q. Have you got that X-ray that you took of the leg before you made your operation? A. I have the plate at the office.

Q. I wish you would have it sent down.

Mr. GRIFFITHS.—Yes; which X-ray are you speaking about now?

Mr. THACHER.—The first X-ray.

Mr. GRIFFITHS.—Before the operation?

The WITNESS.—The prints of that are here.

Mr. GRIFFITHS.—I will offer that in evidence; it being understood that that was the condition of the leg as it was when he came to Dr. Banks; of course, this man was in the United States Marine Hospital at Port Townsend for the period from December, 1913, until May, 1914, when he came to Dr. Banks at the Marine Hospital here.

Mr. THACHER.—Q. Will you identify this picture? A. I do.

Q. As being what?

A. As being prints of the plates that were taken by Dr. Martin and myself, of the right thigh of Mr. Hokanson.

Q. Practically, as I note in these plates, there is almost no union of the bone, is there? How about that?

A. Well, there is considerable callus grown out there, yes.

(Testimony of W. H. Banks.)

Q. But this part here between the two bones, that is simply callus? [107] A. Callus.

Q. So there was no bone at all?

A. That is bony callus.

Q. But not the kind of solid bone that you see—

A. (Intg.) That is the part that becomes the solid bone.

Q. It ultimately may become solid bone?

A. It ultimately may become solid bone.

Q. But it had not become solid bone in this?

A. It was pretty solid when we fitted it.

Q. But it was so slight that it was very light at the time you took the photograph—I mean to say that you can see that this part isn't the same as that part?

A. Because it has not the bony tissue in it that the regular bone has.

Q. A leg like this is extremely weak, is it not?

A. Well, yes, it is.

Q. And any weight thrown upon it is extremely painful, is it not? A. I think so.

Q. Because of the natural effect, that it would practically force the lower part of this bone even and tend to tear down this part of the bone?

A. Not if there is a solid union.

Q. No, I mean under the conditions here.

A. Yes.

Q. Is it not a fact also that here was a case of where his leg, because the upper part of his leg went in one direction and the lower part in another, so that it tended to force these parts of the bone to-

(Testimony of W. H. Banks.)

gether, it would be extremely painful?

A. Of course, a fracture of the bone is always painful.

Q. These jagged edges here?

A. Unless the bone is solid enough to keep it up, there will be pain.

Q. Of course, you would not have operated if the operation before had been a success, or anything like a success?     A. I would not.

Mr. THACHER.—I think I can save you time there; I am [108] quite perfectly *read* to admit that that so-called union there was a bad union, a poor job done before the man came under Dr. Banks' attention, and that Dr. Banks thereafter, in view of that fact, seeing that the job was poorly done, advised a re-operation.

Mr. THACHER.—I do not think there will be any question about that, except simply in the way of bringing out as a natural result of this fall there was and must have been a tremendous amount of suffering and pain incurred on the part of the sailor who fell down from the rigging and that is really all I want. I will offer that in evidence.

Q. Dr. Banks, how many times did you visit Mr. Hokanson in Berkeley; you say that he was under your care and supervision over there.

A. I saw him first in Berkeley on June 14; I saw him again on July 2d, prior to the operation.

Q. June 14 and July 2d and then when?

A. I saw him on December 6th, in Berkeley.

Q. So that the care and supervision that he ob-



(Testimony of W. H. Banks.)

tained after he returned from the hospital was the extent of one visit? A. One visit.

Q. And that was all?

A. It was all that was necessary.

Redirect Examination.

Mr. GRIFFITHS.—Q. Was there any time that Mr. Hokanson asked you to come to see him at his home that you refused to go? A. No.

Q. You were ready to go at any time that you were asked? A. I was always ready.

Q. As a matter of fact, on the last visit of yours, did he seem to welcome your visit very much?

A. I would not say that he did not welcome me, but the impression that I got from him was that he was offish with reference to any further treatment. [109]

**Testimony of S. T. Pope, for Respondent.**

S. T. POPE, called for the respondent, sworn.

Mr. GRIFFITHS.—Q. Dr., are you a practicing physician and surgeon here in San Francisco?

A. Yes.

Q. What is your specialty, if any?

A. I am instructor in surgery in the University of California.

Q. In addition to that appointment in the medical school, you are also a practicing surgeon, are you not? A. Yes.

Q. Of what institution are you a graduate?

A. Of the University of California.

Q. The medical school? A. Medical school.

(Testimony of S. T. Pope.)

Q. What year?      A. 1899.

Q. You have been practicing since that date?

A. Yes.

Q. On or about July 10, 1914, did you perform an operation on Mr. Hokanson, the libelant, here?

A. Yes.

Q. Was the operation successful?

A. Not entirely.

Q. Was it as successful as could be expected under the circumstances?      A. Yes.

Q. It was?      A. Yes.

Q. Did you have him under your care and supervision afterwards, or was he thereafter under Dr. Banks' care?

A. Dr. Banks took the actual care of the man afterwards; I saw him in consultation only.

Q. I will ask you whether or not in your judgment as a surgeon anything could be done for Mr. Hokanson during that operation and since the operation, which was not done.

A. We did everything that was apparently necessary, placed the bones end to end, put a plate on, but they failed to unite.

Q. Did they unite at all?

A. He had, at the last examination, [110] only a partial union.

Q. Can one be sure of a union in a man of Mr. Hokanson's age, Doctor?

A. In the matter of a mal-union, we cannot count upon union after delayed fractures of this type; that is, the bones are put in proper position, end to end,

(Testimony of S. T. Pope.)

but the callus formed was not sufficient to produce union.

Q. At his age?

A. The factors are not well known; it is not entirely the age; but apparently the process of repair had exhausted itself and the cuticle could not produce union.

Cross-examination.

Mr. THACHER.—In other words, Dr. Pope, as I understand it, the operation, when you undertook it, was an extremely difficult one?

A. It was very difficult.

Q. It was just practically a chance?

A. Mechanically, it was possible.

Q. But like one of the very difficult operations of surgery? A. The end results were a chance, yes.

Q. And it was only undertaken because of the suffering and the hardship of Mr. Hokanson which he would have had if he continued with his old leg?

A. Yes.

Q. As a result of this, as I understand it, you took this chance to see if it would put Mr. Hokanson on his feet, and as very naturally comes about, it was not really a success? A. Yes.

Q. So that Mr. Hokanson remained still really a cripple? A. Yes.

Q. And a union of that kind is one which does cause suffering? A. It is painful, yes.

Q. And it will incapacitate him from really any kind of work that is physical?

A. As he stands now, but I wish you to under-

(Testimony of S. T. Pope.)

stand that he has possibilities yet.

Q. You mean to be operated on again?

A. Yes; of course, that [111] is beside the case.

**Testimony of Axel Hokanson, in His Own Behalf.**

AXEL HOKANSON, the libelant, called in his own behalf, sworn.

Mr. THACHER.—Q. Mr. Hokanson, will you state what your experience as a seaman has been?

A. I started to go to sea in 1872 and I followed it up right along until I had the accident in 1913, December 10, 1913.

Q. You started in 1872. What have you sailed as?

A. I sailed as seaman, able seaman, boatswain and second officer.

Q. Are you the libelant in this case? A. Yes.

Q. Now, will you state how you happened to be on the "Senator" on December 10, 1913.

A. I was on the steamer "President" previous to going on board the steamer "Senator."

Q. Where? A. In Seattle.

Q. Who owns the "President"?

A. The Pacific Coast Steamship Company, as far as I know.

Q. Where was the "Senator" when you joined her? A. In Seattle.

The COURT.—Q. Did they transfer you?

A. Yes, your Honor.

Mr. THACHER.—Q. When did the "Senator's" crew take her down?

A. I do not believe there was a crew aboard the "Senator."

(Testimony of Axel Hokanson.)

Q. Why not?

A. I guess they were paid off—I guess she must have been laid up, as far as I know; when she came from Nome, the crew was discharged.

Q. What was your position on the “Senator”?

A. Seaman.

Q. Were you in Victoria on December 10?

A. Yes.

Mr. GRIFFITHS.—What year?

Mr. THACHER.—1913.

Mr. GRIFFITHS.—He was in Victoria on December 10, 1913, was he? That is the date of the accident, presumably. [112]

Mr. THACHER.—I thought it was admitted that on December 10, the “Senator” left Victoria, British Columbia.

Q. Where was the mainsail of the “Senator” when you came on board?

A. It was hoisted up in the same position as it was when I was sent up aloft to clear it.

Q. Will you describe how it was?

A. It was furled and stopped about two feet apart, and hoisted up on the halyards until it was about four or five feet, or nearly so, clear of the deck.

Q. How did you happen to go up in the rigging of the “Senator” on the afternoon of December 10th?

A. I was ordered up there by the boatswain.

Q. Will you explain what the boatswain said?

A. I do not remember exactly if he said, “Axel” or “Alec,” but either one of the two, he said, “Go



(Testimony of Axel Hokanson.)

up and see if you can clear that sail."

Q. Who was there at the time?

A. A seaman by the name of Gunderson; he was at the sail trying to pull it down; the haliyards were let go already, and he was standing pulling at the sail.

Q. He was pulling on the sail?

A. He was pulling on the sail from the deck.

Q. Who else was there?

A. Robert Martin was there.

Q. Was Anderson there?

A. I don't remember seeing Anderson, but I guess he was around there; he was winch driver; I don't know if he was doing anything to the winch; I don't remember seeing him there, but I kind of think he was in the quarters there.

Q. What time was it that you went aloft?

A. Between 3 and 4 P. M.

Q. What was the condition of the weather?

A. The weather was cloudy, overcast.

Q. Will you describe your going aloft, in the first place, describe what you did first?

A. As I was ordered up to [113] clear the sail, I went up in a seamanlike manner.

Q. How do you mean, in a seamanlike manner?

A. Well, taking hold onto the shrouds with the hands, and using my feet on the ratlins, the same as a man would go up a ladder.

Q. Then what?

A. When I came up to on or about the sixth ratlin from the top, I had my right hand through the

(Testimony of Axel Hokanson.)

shroud and my left hand outside of the shroud on the forepart, and I reached for the halyard and I got it, and I overhauled some slack, and I made three or four pulls from the outside as I was standing, on the outside of the rigging, but it would not come down; I investigated, and I could see all the strain practically was hanging on the upper hank of the sail that grasped the jackstaff, and I could not get at it in any other way, and I stepped from the outside of the rigging to the inside of the rigging with my right foot between the two middle shrouds, as near as I can remember, and I reached out—I was holding onto the shrouds with both hands, and I reached out with the left leg and I gave that upper hank a kick, and at that very moment the ratlin that I stood on gave way, and I lost my grip and I came down.

Q. Where was your right foot, between the shrouds?

A. As near as I can remember, it was between the two middle shrouds.

Q. What kind of boots did you have on?

A. Something like these I have got on now.

Q. Where did you rest them on the ratlin?

A. Right here.

Q. On the instep?      A. On the instep, yes.

Q. Are you sure of that?      A. Positive.

Q. What did you have hold of with each hand?

A. The shrouds.

Q. And you reached out with your left foot; how far did you have to reach?

A. I could not give the distance, but I reached it

(Testimony of Axel Hokanson.)

quite easy, without any strain of any kind. [114]

Q. Now, you say the hank was stuck? A. Yes.

Q. Now, will you describe how the hank looks, how it runs on the jackstaff?

A. Well, we will say this is the jackstaff, and this the hank clasp, the iron batten inside of the jackstaff, and this is bolted to the mast; there is a little space, we will say about probably an inch or maybe not so much there, so that the hank can travel freely up and down on that slide on the jackstaff; sometimes the hank gets caught when the jackstaff is not kept in proper order, either oiled or graphited; it ought to be looked after once in a while, but in this case it was rusty.

Q. What else could you have done to get that sail down?

A. Nothing that I know of; that is the only possible way that I could get at that sail.

Q. Have you ever worked on the side of the shrouds before? A. Oh, it is common.

Q. How common?

A. Well, it is done very frequently; when a seaman is up aloft and his work calls to do so, when it is absolutely necessary to do so, he does it.

Q. Yes, but I mean how frequently do men go in and out of one side or the other of the shrouds?

A. It is done all the time, when necessary to do it, when they have to do it.

Q. It is not uncommon? A. It is quite common.

Q. Mr. Hokanson, what makes you think a ratlin gave way?

(Testimony of Axel Hokanson.)

A. Why, I felt it distinctly, what I stood on gave way from under me.

Q. What is the next you remember?

A. I remember laying on the hatch where I fell, in agony.

Q. What happened to you while you were lying on the hatch?

A. The first thing I thought of was my folks at home, and I asked Mr. Sorenson, the chief officer, to come, I wanted to give him my [115] address, and when he came the captain came about the same time, or nearly the same time, and the purser, and I gave my address, everybody was standing around me, a good many of them, by that time, and the captain said to the purser, "Note that down."

Q. Then what happened?

A. I said afterwards to everybody that was standing around me, I said, "Everything is rotten up there."

Q. How much did you weigh at the time?

A. About 170.

Q. That is, with your clothes on?

A. With my clothes on.

Q. Do you remember anything else being said, or what happened down there on the hatch?

A. A seaman by the name of Henry Anderson came to me and he bent his head down close to me and he said, "How did it happen," and I told him the ratlin gave way.

Q. Did you have any conversation with anybody else?      A. No.

(Testimony of Axel Hokanson.)

Q. Did you ever tell the captain that your foot slipped?     A. No.

Q. What happened then?

A. I was taken into the social hall, I don't know how long exactly I remained there, but it was getting just about dusk and it started to rain slightly, and I was put in the ship's boat, and they pulled away from the ship, and as near as I can remember, I was transferred into the life-saving station boat and landed at the beach at Neah Bay.

Q. Then what happened after that?

A. One of the men belonging to the life-saving station said, "The doctor will be here pretty soon"; the doctor came and he gave me chloroform, and when I waked up again I was in splints; I was taken into the boat again, I don't know what boat, but it was some small boat.

Q. When was that, that day or the next day?

A. That very night; that must have been in the neighborhood of eight o'clock in the evening; it was dark; it had been dark quite a while; and I was transferred aboard the revenue cutter "Snohomish"; the "Snohomish" was laying to an anchor, and she did not heave the anchor until [116] seven o'clock the following morning.

Q. You stayed over night on the cutter?

A. I laid in a hammock on board of the revenue cutter "Snohomish" during the night; at seven o'clock in the morning, they hove anchor and proceeded on to Port Townsend.

Q. Then what happened?



(Testimony of Axel Hokanson.)

A. I was put in the boat again, the small boat, and landed at a wharf, put in a machine, and I came to the hospital.

Q. How long were you at the Port Townsend Hospital?

A. I came there on or about December 11, the day after the accident happened, and I remained there to on or about May 15th, the following year.

Q. Then where did you go?

A. I was put aboard of the steamer that ran around the sound there with passengers, that came into Port Townsend, and I was taken over to Seattle; I landed at Seattle and I was put on board of the steamer "Governor," that belonged to the Pacific Coast Steamship Company.

Q. Then where did you go?

A. I arrived in San Francisco on or about the 18th of May.

Q. What did you do there?

A. The company sent me to the Marine Hospital here in San Francisco.

Q. How long did you stay there?      A. 24 hours.

Q. Now, Mr. Hokanson, how badly were you injured, as you remember it, by the fall? What was the extent of your injuries when you reached Port Townsend hospital?

A. I had a compound fracture of the right thigh; I could see the bone through the muscle.

Q. What do you mean by "through the muscle"?

A. Well, I could see the bone through the muscle, I could feel it through.

(Testimony of Axel Hokanson.)

Q. You mean the bone protruded?

A. The muscle protecting the flesh broke and I could feel the bone with my finger. [117]

Q. You could feel the bone, itself?

A. I could feel the bone with my finger.

Q. Was anything else the matter, and if so, what?

A. I was badly bruised up, the whole of my body, and my left leg, from the foot right up to my hip, was black and blue.

Q. How about this part of the body (illustrating)?

A. My head was affected a good deal; it was singing pretty badly when I was in the Port Townsend hospital; it was singing when Mr. Banks examined me home, after I came home.

Q. Were you bruised, or were you cut or anything?

A. I was cut nowhere except where the compound fracture was, where the muscle broke, but I was practically stiff; I could hardly put my hand to my mouth when I was laying on my back in the Port Townsend Hospital.

Q. For how long couldn't you put your hand to your mouth?

A. Well, it took about three or four weeks before I could use it and use it pretty good.

Q. Did you suffer at all at the Port Townsend Hospital? A. Yes.

Q. Describe it, as well as you can?

A. Well, I could hardly describe it in words, what I suffered there, laying on my back; I could not move.

(Testimony of Axel Hokanson.)

Q. How much could you move?

A. Well, just a little bit with my arms.

Q. Couldn't you sit up in bed?

A. How I could sit up, I had 32½ pounds hanging on that right leg that was broke, for fourteen weeks.

Q. During the entire time, or any part of the time, couldn't you raise your head?

A. At the latter part I had three pillows, so my head was raised up a good deal, or elevated, but I never could sit up in bed, because it always hurt me here. [118]

Q. How constant was your pain?

A. It was constant pain all the time while I was in the Port Townsend Hospital.

Q. What was your condition when you arrived here in San Francisco from the north in May?

A. I was very weak; I could not walk by myself on crutches, I had to have somebody to steady me, or I would fall down.

Q. How about any pain?

A. Well, the pain was various, sometimes more and sometimes less.

Q. Now, how long a time did you stay at home after you went home in May?

A. I stayed home to on or about July 10th.

Q. What was your condition at home?

A. I was very weak.

Q. What do you mean by that?

A. Well, not able to handle myself very good; I could not raise myself from a chair without help.

Q. Could you get around on crutches?

(Testimony of Axel Hokanson.)

A. Very little.

Q. Well, how much?

A. Well, I might be able to crawl along on the floor back and forth a couple of times.

Q. A couple of times?

A. Well, for five or ten minutes or so, then I got tired and had to sit down.

Q. Could you go outside and walk up and down?

A. With help.

Q. What do you mean, "with help"?

A. Somebody to help me.

Q. You mean somebody at your side?

A. At my side.

Q. Is that the only way you could do it?

A. That is the only way I could do it for a long time.

Q. Now, after, on or about July 10, what happened?

A. I left home for the Lane Hospital. I was operated on the following day. I remained there to or about October 24 and I was sent home.

Q. How much pain did you have while you were at the hospital on that second occasion?

A. It was not so much as it was in the Port Townsend Hospital, it was much easier.

Q. That was October 24, 1914, was it?

A. Yes. [119]

Q. Now, Mr. Hokanson, since that time how have you been able to get around?

A. I have been able to get around on crutches.

Q. Now, take the matter of the first six months,

(Testimony of Axel Hokanson.)

how completely were you laid up?

A. I could not get along very good, not so good as I can now, by far.

Q. That is, the six months from the time you came back from the Lane Hospital? A. Yes.

Q. How much have you used your crutches in getting around, if you had to use your crutches?

A. All the time except recently; I tried to walk with a stick around the house, but the splint hurt me, I can't do it very well, but I tried it; I thought I would put all the weight I could on the leg.

Q. Did it pain?

A. Yes; there is no strength in the leg.

Q. Do you have any feeling of numbness, anything of that kind?

A. Well, the leg feels feverish and the foot is ice cold; at this present moment it feels like a piece of ice.

Q. How much can you bend your leg?

A. Like that (illustrating).

Q. Can't you bend it any more than that?

A. No; anybody can come here and try it.

Q. How about any question of pain that you have in the leg, aside from when you stand on?

A. I don't understand.

Q. Do you have any pains in your leg aside from when you stand on it?

A. I get cramps very frequently; sometimes in the night, when I am lying in bed, I get cramps, and they might last for quite a while, sometimes half an hour.



(Testimony of Axel Hokanson.)

Q. Do you notice any effect of changes in the weather?     A. Yes.

Q. What effect?     A. It starts to ache.

Q. How much?

A. Well, considerably, I can't say how much.

Q. How frequently does that happen, how often?

A. Any change of weather, when the weather is kind of damp or foggy. [120]

Q. What papers did you have when you were injured, as a seaman or sailor?

A. I have got second mate's license unlimited, for steamships.

Q. How much were you earning at the time you were injured?

A. My standing wages were \$50 a month, that is, seamen's wages, and we averaged on or about \$30 a month overtime; that is, we had 50 cents an hour overtime when we worked overtime, and we averaged about 60 hours a month, on or about 60 hours.

Q. How long had your wages been at that rate?

A. It was that way all the time I was on the steamship "President," I don't know how much they would average on the "Senator," because I was only there three days.

Q. How long were you on the "President"?

A. The last time I was on her I was on her pretty near a year.

Q. Where had you been before you had been on the "President"?

A. I was on a steamer by the name of "Speedwell"; I was second officer there.

(Testimony of Axel Hokanson.)

Q. What were these ratlins made of?

A. They were made out of gas-pipe, as far as I know.

Q. Have you ever inspected ratlins on ships?

A. I have been sent up to repair ratlins, yes.

Q. To inspect ratlins?      A. Yes.

Q. What inspection do you make?

A. Well, if I have any doubt about a ratlin not being seaworthy or the seizin being unseaworthy, when I am up aloft and I generally have what is customarily called a marlin spike with me, and I take the heavy end of the marlin spike and come down on the ratlin like that, a good blow, and if the ratlin will stand that blow, it will stand a man's weight, if he isn't over 200 or 300 pounds.

Q. Can you ascertain by inspection whether a ratlin will break, or [121] not?

Mr. GRIFFITHS.—What do you mean by inspection, by this test?

THACHER.—By this test; as I understand, he testified to that anyway, that an inspection would show whether the ratlin would break or not.

A. A ratlin, where there is smoke going through, inside and outside, and there is soot and paint and one thing or another, it is pretty hard to inspect a ratlin without trying it the way I do with a marlin spike, or with a heavy hammer; that is the only way that I know of, unless you can see for yourself that it is too far gone; then you don't have to inspect it; you can see it is gone and condemn it.

(Testimony of Axel Hokanson.)

Q. How about the seizings, can you tell from an inspection of them?

A. The seizing might be burned; it might be decayed by wind and weather and still all the turns might be around the shrouds and the ratlin, but by putting weight on it, it has got to come; the only way, as I said before, is to tie it.

Cross-examination.

Mr. GRIFFITHS. — Q. Mr. Hokanson, the shrouds and the ratlins that you speak of on a ship are like a ladder, aren't they?

A. You see this grating here, where you will say these are the shrouds that run up and down; this part here will represent the ratlin.

Q. Only on a ship, of course, there will be four of these shrouds instead of two, will there not, or rather, there was on the "Senator"? A. Four.

Q. Four instead of two? A. Yes.

Q. Is the ratlin one piece of pipe or iron that goes clear across? A. Just one piece.

Q. Not a separate piece between each shroud?

A. No. [122]

Q. If you turn your grating upside down, that will represent very nearly the shrouds and ratlins?

A. Exactly, because they come too close here.

Q. To a point? A. Yes.

Q. That is, they hook on to the mast, so to speak?

A. The band that comes around the mast.

Q. They come to a point on the mast? A. Yes.

Q. And the ratlins become narrower as you get up towards the top? A. Yes.

(Testimony of Axel Hokanson.)

Q. Now, tell me about how far from this point where your shroud tucks into the mast at the point, how far down from that was the top of this sail that was furled up along the jack-staff; what distance would that be? A. I don't remember.

Q. Do you remember roughly?

A. I cannot give any estimate, but when I stood on or about the sixth ratlin, the hank I could see in line with that ratlin, or nearly so; that is the only estimate I could give.

Q. You could not have reached the hank that you kicked if you had been standing up higher than the sixth ratlin, could you?

A. I don't remember that; as near as I can give it to you it is that the hank of the sail that I kicked was on a line with about the sixth ratlin that I stood on.

Q. You think you were standing on the sixth ratlin? A. On or about the sixth ratlin.

Q. How far apart are the ratlins?

A. About twelve inches, I should say.

Mr. GRIFFITHS.—Mr. Thacher, these are some photographs that were taken of the mast of the "Senator"; they were taken last year, or probably sometime afterwards, so that I do not pretend, of course, that they represent exactly the condition of the ratlins, [123] or anything of that sort at that time, but I would like to use them simply to give the court a picture of the way these ratlins go up the mast.

Mr. THACHER.—All right.

Mr. GRIFFITHS.—Q. Now, upon this photo-

(Testimony of Axel Hokanson.)

graph which I show you, Mr. Hokanson, and which is marked exhibit "A," you see the shrouds running up to the mast in the way that you have described, don't you?     A. Yes.

Q. And the ratlins are shown here across?

A. Yes.

Q. Will you show me where the top of the said is on that? Can you do that—about where that mast-head is—is that clear enough so that you can see the top of the sail?

A. Yes, but this sail could have been hoisted up; this sail is not in the same position as when I went up to take it down.

Q. How was it when you went up to take it down?

A. It was higher up.

Q. It was not higher than about the sixth ratlin, was it—was the top of the sail higher than the sixth ratlin?

A. That is pretty hard for me to remember, all that, at the moment, but you can make that sail up in different ways; you can make it up different heights.

Q. The sail will go up different heights?

A. You can make it up different heights; if you were to make that sail up a hundred times, you could not get it in the same place twice.

Q. I cannot see that, your Honor; I was under the impression that the sail went up to a particular height; if a ratlin were actually out, that is to say, if there were a gap between the shrouds, you could see that below, couldn't you?     A. Yes.



(Testimony of Axel Hokanson.)

Q. You told Mr. Thacher, I think, that the seamanlike manner to go aloft was always to hold on to the shrouds, did you not? [124] A. Yes, I did.

Q. What is the reason for that; why do you always hold on to the shrouds?

A. Because that is the main thing to hold on to.

Q. That is to say, you mean by that that the shrouds, being, so to speak, the side pieces of the ladder, you can count on them as being secure, can't you, just as we can count on the sides of the ladder being secure, they will hold; if you just hold on to the shrouds, they will hold, won't they? A. Yes.

Q. On the other hand, you say that as to the ratlins, you never can be perfectly certain, if I understand you, that there is not some secret or hidden weakness to them, so that you cannot test them for sure, unless you use—what did you say, a marlin spike—to strike them? A. Yes.

Q. In other words, you have to put them through a thorough test to be absolutely sure they are sound, that is, of course, except if they are rusty, you could see that, couldn't you?

A. Yes, you could see if it was rusty.

Q. If it was like ashes, you could see that easily?

A. Yes, I think so.

Q. If there were any gap, you could see that?

A. Yes.

Q. What was this hospital at Port Townsend that you went to? Do you know what the name of that hospital at Port Townsend was, do you remember?

A. The Marine Hospital, the Government hospital.

(Testimony of Axel Hokanson.)

Q. The Government hospital, the United States Government hospital?

A. The United States Government hospital.

Q. The United States Marine Hospital at Port Townsend? A. Yes.

Q. When you left there, you left at your own request, did you—you wanted to go away—or did they send you away?

A. No, I asked to be sent home, because I was getting weaker and weaker every day. [125]

Q. Then you came down here to what institution in San Francisco? A. To the Marine Hospital.

Q. That also was the Government hospital?

A. Yes.

Q. United States Government? A. Yes.

Q. You did not have any bills to pay for medical expenses or anything of that sort, up north, did you?

A. No.

Q. Or for your fare down here?

A. The company gave me first-class passage down.

Q. You did not have any bills to pay at the Lane Hospital, did you? A. No.

Q. Or any bills to pay to Dr. Banks or Dr. Pope, for any of their services? A. None whatsoever.

Q. Did Dr. Banks ever refuse to see you again after December, when he was over there the last time? A. No.

Q. He was willing to come, was he not, if you should call for him?

A. I did not ask him about that; if I had called him, I guess he would have come.

(Testimony of Axel Hokanson.)

Q. You understood that he was perfectly ready to continue attendance upon you if you needed his aid, didn't you?     A. Yes.

Q. And the last time he saw you you told him that that plate was hurting a little, didn't you?

A. Yes.

Q. Did he say that he would relieve you, or endeavor to relieve you, of that pain, if you so desired, and for you to call him up if you wished to?

A. He suggested for me to go into the hospital again and have it taken out, and I was thinking about that, I had enough hospital.

Q. You did not want to go to the hospital again?

A. I just asked him, "What do you think I was made of, a log of wood, or something," that he could do anything he liked; that is the way I put it.

Q. Was Dr. Pope kindly and considerate of you in the operation [126] and afterwards?

A. He treated me very fine, the best he knew how, apparently, in my judgment.

Q. Now, has the Pacific Coast Steamship Company paid you any sums of money, Mr. Hokanson, or given you any sums of money?     A. Yes.

Q. Do you recall what those amounts are?

A. Yes, exactly.

Q. How much?

A. Altogether, \$175; \$25 each time three times, and \$50 before I went in the Lane Hospital, and my wife got \$50 during the time I was laying in Lane Hospital; that is all; if they say more, they will have to show the signature.

(Testimony of Axel Hokanson.)

Q. I am not making any claim for any more, Mr. Hokanson; I am just asking you to know whether I should have to make that proof myself. In taking you back and forth to your home, they were considerate of your condition, furnished a taxicab?

A. Taxicab, yes.

Q. At Seattle and here?

A. At Seattle I was in the ambulance; I could not use crutches; I was in an ambulance.

Mr. THACHER.—Q. What was the condition of the shrouds—did you notice any particular condition of the shrouds, when you went up, of the ratlins when you went up—I should say the ratlins?

A. There were some ratlins missing.

Q. Some missing? A. Some missing, yes.

Q. Did you notice anything aside from the ratlins missing—did you notice anything particular about them? A. Not that I can recollect.

Q. How closely did you examine each ratlin as you went up?

A. I did not examine the ratlins exactly; it is not the customary thing for a seaman when he goes up to go and look first at each ratlin, and see if it is all right, and look at each one until he gets up to his place where he is going to work; if the people saw him, or happened to see him do that, they would say that man was crazy. [127]

Mr. GRIFFITHS.—Q. That is why you hold on to the shrouds as you go aloft, because you cannot stop to make a thorough test of every ratlin?

A. That is the reason we hold on to the shrouds.

(Testimony of Axel Hokanson.)

Q. On the shrouds, which is a secure hold?

A. Yes, but the ratlins are supposed to be secure, also; that is what they are there for.

(A recess was here taken until two P. M.)      [128]

### AFTERNOON SESSION.

#### **Testimony of Charles Hasse, for Libellant.**

CHARLES HASSE, called for the libellant, sworn.

Mr. THACHER.—Q. Mr. Hasse, what is your occupation?      A. Master mariner.

Q. What has been your experience at sea?

A. I have been at sea for over 40 years.

Q. How long have you been a master?

A. Nine years.

Q. Captain, how are inspections of ratlins made on a boat?

A. The only inspection—it depends on what kind of a ratlin it is.

Q. Take the case of a pipe ratlin.

A. Well, the only inspection that can be done there is to send a man up there with a heavy marlin spike, or something to test the pipe, to see if it is rusted off, or anything, and take the point of the marlin spike and try the seizin.

Q. What will that show?

A. That will show if they are good or bad.

Q. Will it show whether or not it would hold a man?      A. Yes, it will show that.

#### Cross-examination.

Mr. GRIFFITHS.—If the ratlins were badly



(Depositions of Charles Hasse.)

rusted, could you easily see that, Captain?

A. Yes, you could easily tell that; any man, any sailor, could easily tell that.

Q. The ratlins would be just about before your eyes as you ascended the shrouds, would they not—the ratlins would be about on a level with your eyes as you go up the shrouds, right close to you?

A. Yes.

Q. If there was a gap in the ratlins, any missing, you could see that easily, of course? A. Yes.

Q. What is the seamanlike way to ascend aloft, what do you hold to?

A. Well, when you are going up the rigging, a man will grab hold of the shrouds. [129]

Q. The shrouds?

A. Yes; it is a foolish sailor who grabs hold of the ratlins.

Q. Why does he hold onto the shrouds?

A. Because there is more stability of them, and he takes hold of the shrouds in each hand and works up.

Q. If he has got a good hold on the shrouds, it does not matter what gives way?

A. Yes; even if the ratlins give way when you work up, you generally hold onto the shrouds.

Q. As I understand, it is a careless and negligent seaman that does not hold onto the shrouds?

A. Yes.

Mr. THACHER.—That is our case.

Mr. GRIFFITHS.—If your Honor please, the defense will be that no ratlin gave way under the foot of Mr. Hokanson, but on the contrary he swung out

(Depositions of Charles Hasse.)

from the shrouds, or rather from the ratlins, and jumped onto the top of the sail with both feet, and loosened it in that way; that falling, his falling was due to the fact, apparently, that he did not take, as he should have taken, and as a good seaman should have taken, a secure hold upon the shrouds, which, of course, are one security aloft; that so far as the owners of the vessel are concerned, the vessel was amply equipped with cordage, and rope, and all the other material and equipment of a ship necessary to keep her in good order, and in so far as this equipment was not properly used, that was failure upon part of the officers of the ship, who should have made use of that which was amply provided for them by the owners; that so far as the care of Mr. Hokanson afterwards was concerned, the ship, immediately after the accident, showed Mr. Hokanson every consideration that could be shown him under the circumstances, and immediately put the ship about for Neah Bay, which was the nearest port, having sent, as the deposition of Captain [130] Hannah shows, a wireless to make sure that a doctor was there, placed him then in charge of the doctor on the United States revenue cutter, which came out to meet the ship.

The COURT.—I understand there is no question in the case as to the treatment received after the accident.

Mr. GRIFFITHS.—I want to show he went into the charge of the United States Marine Service. I offer in evidence the deposition of Dr. C. L. Woods,

(Testimony of Oscar Silow.)

who had charge of Mr. Hokanson at Neah Bay, and of Dr. P. I. Carter of the United States Marine Hospital, at Port Townsend, and of Captain C. J. Hannah, who was master of the "Senator" at the time of the accident. I will also offer in evidence this statement of expenditures made by the Pacific Coast Steamship Company for hospital and medical services to Mr. Hokanson, and for other incidentals in connection therewith, this statement including the items of \$7.50 and \$250 paid to Dr. Banks, to which he testified this morning, but not including the payment for maintenance of Mr. Hokanson, to which he himself testified this morning. This statement is agreed to as correct by counsel upon the other side; that is true, is it not, Mr. Thacher?

Mr. THACHER.—Yes.

Mr. GRIFFITHS.—Accompanying that, I will also offer the duplicate receipt from the Lane Hospital, which is one of the items appearing in that list; the other original receipts are at the main office of the company at Portland.

**Testimony of Oscar Silow, for Respondent.**

OSCAR SILOW, called for the respondent, sworn.

Mr. GRIFFITHS.—Q. Mr. Silow, where were you employed on December 10, 1913?

A. On the "Senator."

Q. In what capacity?

A. As boatswain. [131]

Q. With whom were you employed immediately

(Testimony of Oscar Silow.)

prior to your employment on the "Senator," with what company?

A. The Alaska Steamship Company.

Q. How far is it, Mr. Silow, from the smokestack on the "Senator" approximately to the mainmast?

A. About 40 feet.

Q. Did you see Mr. Hokanson go aloft that day, that afternoon?      A. Yes.

Q. Did you order him aloft?

A. No. He went before I had a chance to tell him.

Q. What were you doing or endeavoring to do with the sail at that time?

A. To take it down, to get it down on deck.

Q. Was it stuck?      A. Yes, it was stuck.

Q. Did you watch Mr. Hokanson as he went aloft?

A. Yes.

Q. What observations did you make in connection with the lowering of the sail at that time; what did you see happen at this time?

A. I saw Hokanson go aloft, and he was standing on a ratlin, and he had hold of the shroud with his two hands, and he jumped on to the head of the sail with his two feet and the sail gave way a little, so Hokanson lost his footing—

Q. (Intg.) His footing where?

A. His footing on the sail; the sail gave way a little.

Q. What happened then?

A. He must have lost his hold with his hands and fell down.

Q. Did you see him fall?      A. Yes.

(Testimony of Oscar Silow.)

Q. What ratlin was he standing on?

A. On the eighth ratlin from the top.

Q. What did you do immediately afterwards, after he fell?

A. After he fell I first helped to bring Hokanson into social hall, and then I got orders from the first officer to see if there was anything carried away, which I did. [132]

Q. What did you find?

A. I found that nothing had carried away.

Q. Did you or did you not find any ratlins hanging down loose? A. No.

Q. Any evidence of any recent breaks?

A. No, no recent breaks.

Q. What ratlins did you stand on when you went aloft there yourself?

A. On the same ratlin; in fact, I was on several, to examine the condition of them.

Q. What was their condition?

A. Some of them, they were very poor, but some were all right; there was a couple of them that were in poor condition.

Q. Where were the poor ratlins?

A. On the third and fourth ratlins down from the top.

Q. Were any in bad condition lower than that?

A. No, not that I saw.

Q. Now, do you remember that photograph being taken along in May of this year? A. Yes.

Q. Is that you aloft on the mast?



(Testimony of Oscar Silow.)

A. Yes, that is me.

Q. Does that show the ratlins and shrouds on which Mr. Hokanson was standing on the occasion of the accident? A. Yes, they show.

Q. On what ratlin were you standing there?

A. I was standing on the eighth ratlin there.

Q. Did you observe at the time that photograph was taken, how the sail was furled up?

A. Yes, it was furled up the same way as it is now.

Q. You mean on the occasion of the accident it was furled up in the same way as it is on the photograph? A. Yes.

Q. How high is it furled on the photograph—I do not mean in distance, but—

A. (Intg.) Oh, it is furled as high as it can be furled; you can't hoist it any higher than it is now, than the photograph shows. [133]

Q. Did you take particular notice that time to see that it was hoisted at that time as high as it could be?

A. Yes.

Q. Did I ask you what ratlin you were standing on there—what ratlin were you standing on?

A. The eighth ratlin.

Mr. GRIFFITHS.—I offer this photograph in evidence; it is marked here as exhibit "A"; I ask that it be given an appropriate number.

Q. Now, Mr. Silow, I show you another photograph; was this taken at the same time as the previous photograph? A. Yes.

Q. That is you shown there in the photograph?

(Testimony of Oscar Silow.)

A. Yes.

Q. Is the sail there also furled to the same extent as you have testified to?

A. Yes, it is furled to the same height.

Q. As high as it could be?      A. Yes.

Q. What are you showing by your position in the photograph?

A. I am showing the position that Hokanson had at the time.

Q. That illustrates your account of the accident, does it?      A. Yes.

Q. And the way in which you think it took place?

A. Yes.

Mr. GRIFFITHS.—This is marked exhibit "C"; I offer it in evidence as one of respondent's exhibits.

Q. Mr. Silow, I will ask you whether or not, in your experience as a sailor, or a man of the sea, you have had occasion to lower sails which were furled as this sail was?      A. Yes.

Q. How did you do it?

A. I did *in* practically the same way as this was done.

Q. What did you hold on to?

A. I would hold to the shrouds if I were to do what Hokanson did there.

Q. Why do you hold to the shrouds?

A. It is safer to hold on to the shrouds than on to the ratlin.

Q. In other words, do you trust to your hand hold or foot hold?      A. I trust to my hand hold. [134]

(Testimony of Oscar Silow.)

Q. Is that the seamanlike way to do? A. Yes.

Q. Did you or did you not find any ratlins loose about the deck after this? A. No.

Q. Did you have any turned in to you by any of the sailors? A. No.

Q. Or other men aboard the ship? A. No.

Q. How was the ship equipped on this voyage?

A. She was well equipped.

Q. How was your supply of cordage?

A. She had an ample supply of everything.

Q. Of ropes? A. Yes.

Q. Marline? A. Yes.

Cross-examination.

Mr. THACHER.—Q. Mr. Silow, how old are you?

A. 27.

Q. You are 27? A. Yes.

Q. So that at that time you were 25? A. Yes.

Q. Had you ever been a boatswain before?

A. No.

Q. That was the first time you had ever been a boatswain? A. Yes.

Q. And you began your life, your career, as a boatswain the day before this accident?

A. Two days before that.

Q. Had you ever been on the "Senator" before?

A. Yes.

Q. How long before?

A. Seven years before that.

Q. But not in the period between the seven-year period? A. No.

(Testimony of Oscar Silow.)

Q. Until two days before the accident?

A. Yes.

Q. Do you remember being ordered by the mate to have the sail brought down? A. Yes.

Q. Why were you ordered to do that?

A. The captain wanted it down, wanted it taken down and sent ashore to be repaired.

Q. And the mate ordered you to have it brought down? A. Yes.

Q. The mate, as I understand it, gave his orders to you and then you passed them on to the seamen?

A. Yes. [135]

Q. That is the way it worked out? A. Yes.

Q. What were you doing with that sail before Hokanson went up?

A. We were trying to take it down.

Q. You were trying to take it down?

A. Yes.

Q. How did you try to take it down?

A. We tried by letting the halyard go.

Q. That would not work? A. No.

Q. So a man had to go up aloft? A. Yes.

Q. Who was working on that job with you—Anderson, Gunderson?

A. There was Anderson, Gunderson.

Q. Martin was there? A. Who is Martin?

Q. He was the cabin boy who testified this morning, the deck boy. A. Oh, yes.

Q. The fellow with curly hair?

A. Yes, he was there.

Q. Anderson, Gunderson, yourself? A. Yes.

(Testimony of Oscar Silow.)

Q. Martin and Hokanson? A. Yes.

Q. You five were the men who were engaged in lowering that sail, or attempting to lower it?

A. Yes.

Q. You found that you could not have it brought down from the deck; you could not haul it down from the deck? A. Haul it down on deck, no.

Q. You could not bring it down on deck, so somebody had to go up aloft? A. Yes.

Q. Where were you working when you found that someone would have to go up aloft?

A. Right there on the sail.

Q. Right there on the sail? A. Yes.

Q. Was not Hokanson working beside you?

A. Yes, he was working beside me.

Q. He was working beside you? A. Yes.

Q. Did you see him go over to the shrouds?

A. Yes. [136]

Q. Did you know what he was doing?

A. I did not realize what he was doing before then, but then I knew what he was going to do when he went up on the shrouds.

Q. You knew when you saw him go over there that someone had to go up the shrouds to let the sail down, didn't you? A. Yes, I did.

Q. And he went up the shrouds, and you were pulling on the sail, weren't you?

A. No, we were not pulling on the sail then.

Q. You were not pulling on the sail then?

A. No.



(Testimony of Oscar Silow.)

Q. What were you doing?

A. We were waiting for the man to get up there, so that we could get it down.

Q. Are you sure that you and Gunderson were not working on the sail?

A. No, we were waiting for Hokanson to get up there.

Q. So that he could kick it loose?

A. Yes, and give it a start.

Q. That was the trouble, that the hank was stuck in the jackstaff?     A. Yes.

Q. Someone had to go up there and loosen it up?

A. Yes.

Q. You remember, don't you, that he went up there on the outside of the shrouds?     A. Yes.

Q. And he tried to get her loose from the outside?

A. He could not reach it from the outside.

Q. You remember he tried to loosen it from the outside?

A. He may have tried it, but he could not reach it from there; I don't see how he could try, when he could not reach it.

Q. He might have tried?

A. He might have tried.

Q. You did not see him try?     A. No.

Q. Then you were not watching him at the time?

A. Yes, I was watching him all the time.

Q. But if he tried, you don't know whether he tried or not?

A. I don't see how he could try from the outside

(Testimony of Oscar Silow.)

when he could not reach the sail. [137]

Q. You were standing where with reference to the shrouds, Mr. Silow?

A. I am standing eight ratlins down there.

Mr. GRIFFITHS.—What are you referring to now, Mr. Thacher? Will you identify the exhibit?

Mr. THACHER.—I am referring to when he was standing down below when Hokanson was up aloft. Where were you standing when Hokanson went up?

A. On deck, right underneath.

Q. You were standing right underneath?

A. Yes.

Q. You had been pulling on the sail? A. Yes.

Q. You were standing, then, within arms' length of the sail? A. Yes.

Q. You were standing so that the sail was right where you could reach it at the time? A. Yes.

Q. And you saw, you stated, when he got aloft, didn't you? A. Yes.

Q. You saw him go around to the inside?

A. Yes, go around to the inside.

Q. You saw him kick?

A. Yes; he swung out from the rigging, out to the sail.

Q. You said something about his standing on the eighth ratlin; you don't know he was standing on the eighth ratlin, do you?

A. Yes, because I could see the distance there myself afterwards; you could not get the sail any higher—if he stood any higher, he could not reach the head of the sail.

(Testimony of Oscar Silow.)

Q. Didn't the sail come down at the same time that he did?

A. Yes, the sail gave way just a little, and he fell then.

Q. Didn't the sail have to give way?      A. No.

Q. Then the sail was up after he fell?

A. Yes, it just came down a little.

Q. The sail was still up after the fall?

A. Yes, it was still up.

Q. Then the way in which you reach it that he was standing on the [138] eighth ratlin was that the sail gave way when he was standing on it?

A. Yes.

Q. And then afterwards you looked up and saw where the top of the sail was and you made up your mind that he must have been on the eighth ratlin?

A. He must have been on the eight ratlin, because the sail could not go any higher.

Q. It could not go any higher?

A. No, the sail goes as high as the eighth ratlin.

Q. Then the only way that you know whether he was standing on the eighth ratlin is by the fact where you think the sail was?      A. Yes.

Q. That is how you know it was the eighth ratlin?

A. Yes.

Q. That is the only way you know it, isn't it?

A. That is the only way; you can't get it any higher.

Q. How far did the sail give way?

A. About a foot, around a foot.

Q. How do you know it was a foot?

(Testimony of Oscar Silow.)

A. I saw that afterwards again; I saw it only gave a foot.

Q. You testified that you were standing so that you could touch the sail with your hands when he was aloft? A. Down on deck, yes.

Q. So that Hokanson was, when he was up toward the eyes of the rigging, directly above you, wasn't he? A. Yes.

Q. What were these men that were with you doing?

A. They were waiting for the sail to get a start to come down.

Q. They were not doing anything? A. No.

Q. Just standing around? A. Yes.

Q. They were not trying to assist Hokanson in lowering the sail? A. They could not assist.

Q. You might have pulled on the sail, might you not? A. It was jambed up aloft.

Q. I know it was jambed, but you could pull from one end as well [139] as the other, and the four of you were standing right around the bottom of the lower part of the sail, weren't you? A. Yes.

Q. I suppose after the sail had only given way a foot, someone else went up and he kicked that sail loose?

A. No, we got it adrift then; we got it away from the hank and got it down that way.

Q. What was the matter with the hanks?

A. They were jambed on the jackstaff.

Q. They were not very well greased, were they?

(Testimony of Oscar Silow.)

A. No.

Q. Rusted?      A. Must have been.

Q. Not oiled?      A. No, they never do get oil.

Q. Or grease?

A. They don't need to get grease, either.

Q. So they were rusted, they were all of that?

A. No, they could not rust, neither, they were painted.

Q. Here is the answer in this case, Mr. Silow; you may have seen it.      A. No, I have not.

Q. Sworn to by Mr. Towle, secretary of your company. He says that "said libelant carelessly and negligently and in an unseamanlike manner removed both feet from said ratlins and by holding onto one of said shrouds with one hand only, swung himself bodily away from said shrouds and said ratlins and jumped on to said trysail with both feet." As I understand it, you testify that he jumped on this with both feet?      A. Yes, I do.

Q. And with only one hand holding on to the shrouds?      A. Two hands, I testified to two hands.

Q. He held on with two hands?      A. Yes.

Q. And he jumped to a position which was about five feet away from where he had hold with his hands?      A. Yes.

Q. And 40-odd feet above the deck?      A. Yes.

Q. And he had simply hold of the shrouds?

A. Yes.

Q. Now, tell me, what are these shrouds made of?

A. Wire. [140]

Q. They are made out of wire?      A. Yes.



(Testimony of Oscar Silow.)

Q. Have they got anything on the wire?

A. No.

Q. Just plain, simple wire?

A. Just plain, simple wire.

Q. How thick are they?

A. About an inch and a half in diameter, or an inch and a quarter, maybe they are; I don't know the exact size.

Q. Did you ever see anybody do such a thing as that before in your life?      A. Yes.

Q. What, jump with both feet?

A. I have done it myself.

Q. You have done it with yourself?      A. Yes.

Q. When you were at sea?      A. Yes, at sea.

Q. What do you mean by jumping on the trysail?

A. Well, to make a jump from the ratlins, we will say on the after part of the shrouds, I can just have one foot on the ratlins, and then I can just swing my two feet right on to the head of the sail and hold on with my hands.

Q. What do you mean by swinging your two feet?

A. Swinging the whole weight of my body out to the head of the sail, as long as I hold on with my hands.

Q. And then holding on to this wire rope?

A. Yes.

Q. Which is an inch and a half in diameter?

A. Yes.

Q. You invariably have the sail give on you, go down, don't you?      A. Yes.

Q. And then you dangle in the air?

(Testimony of Oscar Silow.)

A. No; you can swing back to the rigging again.

Q. Then you swing back?

A. You swing back to the rigging again.

Q. As a matter of fact, you swing some eight feet, don't you—I mean to say your feet on the ratlins would be eight feet from your feet on the sail?

A. It would not be eight feet away from the sail; I could not reach it then. [141]

Q. You would be five feet?

A. Well, hardly five feet.

Q. The distance between there and there (illustrating)? A. Yes.

Q. How long did you stay on the "Senator"?

A. At that time, I stayed there about three months; I have been on her off and on ever since.

Q. When did you have the trysail up again?

A. About seven or eight months afterwards.

Q. There is a great deal of smoke that goes through that rigging, is there not? A. Yes.

Q. You burn coal? A. Yes.

Q. This soft lignite coal, you call it, don't you?

A. I don't know what they call it.

Q. But it is the cheap coal that comes from the north? A. I don't know the price of it.

Q. It is a sort of bitumen?

Mr. GRIFFITHS.—He says he does not know, Mr. Thacher.

Mr. THACHER.—Q. You know that it was soft coal, don't you?

A. It is soft coal; some of it is soft and some of it

(Testimony of Oscar Silow.)

is lumped; I don't know the quality, nor the price.

Q. Where did you get it? A. Seattle.

Q. You know that thick smoke pours through this rigging? A. Yes.

Q. And sparks very frequently fly from the smoke-stack, don't they? A. Yes, quite frequently.

Q. What is your position on her now?

A. I was boatswain on her.

Q. You are boatswain on her?

A. I was taken off in Seattle.

Q. What is your present position? A. None.

Q. How soon after Hokanson went up did this sail give way?

A. After he went up it gave instantly, as soon as he jumped onto it.

Q. As soon as he got up there, he jumped right onto it? A. Yes.

Q. Didn't wait a minute? A. No. [142]

Q. That is quite an acrobatic feat, isn't it, to do that? A. I don't know.

Mr. GRIFFITHS.—I object to that.

A. (Continuing.) I don't think that it is very acrobatic for a sailor, particularly for a man of my age, anyway.

Mr. THACHER.—Q. But it would be for an older man? A. He is a good man, too.

Q. He was a very good man, was he not?

A. All right.

Q. Wasn't he very active?

A. He was active for a man of his age.

(Testimony of Oscar Silow.)

Q. As soon as he went up, he jumped onto the sail. How did he get over there on top of that sail, Mr. Silow?

A. How I get over there—that is very easy.

Q. Show me.

A. Shall I show you on the picture?

Q. Yes, show it to us on the picture.

A. Well, I am standing here on the rigging.

Mr. GRIFFITHS.—Identify that exhibit, will you please, Mr. Thacher; I want that to be clear.

Mr. THACHER.—This is marked “C” on the back, and is exhibit “D.”

A. When I am standing out on the rigging here, I just take hold of it the way I have got hold of it there, and with the rigging up there like that, if I let go and swing, I will hang up and down; and when I let go I swing over.

Q. You mean you sort of take your hands and, holding onto that, you swing your whole body over?

A. Yes.

Q. A distance of five feet?

A. It is about five feet; the distance is about five feet.

Q. You say that afterwards you examined the rat-lins at the top and some of them were in very poor shape? A. Yes.

Q. What was the matter with them?

A. Part of them was gone.

Q. Part of them was gone? A. Yes. [143]

Q. Burned out, weren't they?

(Testimony of Oscar Silow.)

A. Rusted off; they could not very well burn; iron could not very well burn off.

Q. I understand, but the heat which poured from the funnel would necessarily deteriorate your iron, wouldn't it?

A. No, it would not be that hot; it would not cause it to heat that far aft.

Q. But at the same time the ratlins there were rusted, many of them—several of them?

A. They were all rusted more or less, I guess.

Q. They were all rusted more or less? A. Yes.

Q. You are ready to subscribe that some of these top ratlins were in very poor shape? A. Yes.

Q. What did you mean by saying that the ship had a supply of cordage; did you mean to say she had the ordinary rope and so forth on board? A. Yes.

Mr. GRIFFITHS.—What do you mean by your question; I do not understand it; he testified she was amply equipped with cordage.

Mr. THACHER.—Q. When you say that she was amply equipped with cordage you simply mean that she had twine enough and rope enough to meet her ordinary exigencies, don't you? A. Yes.

Q. She was like any other ship? A. Yes.

Q. So that all that you know about this was that she was in the kind of condition that any ship is, that is to say, as to her having cordage enough she was like any other ship? A. Yes.

Mr. GRIFFITHS.—What do you mean by "any other ship"; there might be a different supply on various ships.



(Testimony of Oscar Silow.)

Mr. THACHER.—Just an ordinary supply.

Mr. GRIFFITHS.—What do you mean by an ordinary supply?

Mr. THACHER.—One that would not be so very much below the average; that she was fitted out with ropes, so that if the ropes broke they could put in new ropes, and patch her sails and so on. [144]

Mr. GRIFFITHS.—Do you contend he could not get cordage on board that ship?

Mr. THACHER.—I doubt if there is ever a ship leaves port where they would not have sufficient rope, sufficient cordage to patch a thing in an accident.

Mr. GRIFFITHS.—Then, if your Honor please, I object to this line of inquiry as having no point or purpose.

Mr. THACHER.—I won't press it.

Q. You were standing right at the bottom of the sail, weren't you?

A. At the time Hokanson fell?

Q. At the time Hokanson fell, yes.

Q. From the moment that he went up to the time that he fell, you were standing there? A. Yes.

Q. You were standing on which side of the mast?

A. On the port side.

Q. On the port side? A. Yes.

Q. How much sea was there on?

A. There was practically no sea; there was a little swell running.

Q. A little swell? A. A little swell.

Q. A little breeze? A. Very little.

(Testimony of Oscar Silow.)

Q. Suppose the sail had come down all of a sudden, would that sail have struck you?

A. No, it could not.

Q. Why?

A. It would have stayed on the jackstaff.

Q. When was the first thing you knew about Hokanson falling?     A. I saw him falling.

Q. You saw him falling?     A. Yes.

Q. What did he fall to?

A. He fell down on the after hatch, on No. 3 hatch.

Q. He was right over you, wasn't he?     A. Yes.

Q. How far was No. 3 hatch from you?

A. It would be about four [145] or five feet abaft me.

Q. He did not fall down any closer to you, did he?

A. No; that is on a different deck, too, where he fell.

#### Redirect Examination.

Mr. GRIFFITHS.—Q. Mr. Silow, I just want you to state again where the ratlins were which you stated were in poor condition; which ratlins were those?

A. Three and four.

Q. You are certain there were not any in poor condition lower than the fourth?     A. Yes.

Q. There were none in poor condition below the fourth?     A. No.

Mr. THACHER.—The third and fourth ratlins, as I understand it, were in this bad shape that you speak of?     A. Yes.

Q. And the seizings were in bad shape, weren't they?

(Testimony of Oscar Silow.)

A. There were pieces of ratlins gone, pieces of the middle of the ratlin gone on the third and fourth.

Q. How soon after the accident did you go up the shrouds?

A. About five minutes afterwards; it was not over five minutes afterwards.

Q. That was after the captain had gone aft?

A. Yes.

Q. You went up right away and came right down, did you?     A. Yes.

Mr. GRIFFITHS.—Q. I just want to ask you now, is your recollection perfectly clear that you went up after the captain came aft?     A. Yes.

Q. Do you remember distinctly the captain coming aft before you went aloft?

A. The captain came back and we brought Hokanson to social hall and I went aloft.

Q. After you went into social hall?     A. Yes.

Mr. THACHER.—That was some ten or fifteen minutes after the fall, was it not?

A. No, I do not think it was.

Q. How long would you say that he laid on deck?

A. I could not [146] say exactly; it was not very long, anyway.

Q. The sail was still up when you went up?

A. Yes, it was still up.

**Testimony of E. Shorensen, for Respondent.**

E. SHORENSEN, called for Respondent, Sworn.

Mr. GRIFFITHS.—Q. What papers do you hold, Mr. Shorensen?     A. Master's papers unlimited.

(Testimony of E. Shorensen.)

Q. What papers did you hold on December 10, 1913? A. Chief mate's papers.

Q. On what vessel, if any, were you at that time, on December 10, 1913—on what ship were you?

A. On the steamer "Senator."

Q. In what capacity? A. Chief mate.

Q. Did you see this accident to Mr. Hokanson on that day?

A. No, I did not; I did not see him fall.

Q. When did you first see him, if at all?

A. On No. 3 hatch, after he had fallen down.

Q. What were you doing then?

A. Well, I was coming along the deck from forward.

Q. Did you or did you not actually see him fall or hit the hatch?

A. No, I did not see him fall; I did not see him hit.

Q. How soon thereafter did you see him?

A. Just as he landed, I just came around the corner when he fell there.

Q. What did you do then, Mr. Shorensen?

A. Well, I went over to see what was the matter with him, and I got a mattress, sent for a mattress, put him on the mattress, and we packed him into social hall.

Q. Then what did you do next?

A. Well, we left him there in the social hall on the mattress, and left a man there with him, one of the sailors. [147]

Q. Did you give that man any instructions?

(Testimony of E. Shorenson.)

A. Yes, I told him that if there was anything that he wanted, or anything he could do, to let me know.

Q. Then what did you do?

A. Then I went out on deck; I had to get the anchor ready, to let go the anchor when we got into Neah Bay.

Q. That is, your ship put about for Neah Bay?

A. Yes, we turned about right away.

Q. When did the man leave the ship, and under what circumstances?

A. When we came into Neah Bay, the life-saving boat came out with a doctor.

Q. Did you put Hokanson on board?

A. Yes, we put him on this life-saving boat and sent him ashore.

Q. How was he lowered?

A. We put him in one of our boats first on the deck, and then lowered our boat down to a level with the other one and put him aboard.

Q. What are the ratlins on the ship made of?

A. Pipe, iron pipe.

Q. Iron pipe, how thick?

A. I guess about half an inch.

Q. Can you burn them through by smoke from your stack?     A. No.

Q. How far away is the smokestack from the main-mast?     A. About 35 feet.

Q. How was the "Senator" equipped on this voyage, with respect, for instance, to cordage?

A. We had plenty of everything.



(Testimony of E. Shorenson.)

Q. Marlin? A. Marlin and rope.

Q. No shortage? A. No shortage of any kind.

Q. What sail was it that was furled up alongside the mainmast? A. The trysail.

Q. When it is hoisted aloft and furled in that way, is it or is it not always hoisted to the same height?

A. It is always at the same height.

Q. A standard height when it is furled?

A. Yes. [148]

Cross-examination.

Mr. THACHER.—Had you been on the “Senator” on her Nome trip? A. Not that year, no.

Q. When did you go on, in December, 1913?

A. I came on about eight days before the accident happened.

Q. Where did you go on from, what ship?

A. From the “President.”

Q. You came on her from the “President,” too?

A. Yes.

Q. When you came on the “Senator,” was the ship pretty well deserted?

A. Well, there were some men working on her.

Q. How long had she been down from Nome then?

A. About a month.

Q. Lying up? A. Lying up.

Q. You say the mainmast was about 35 feet from the stack? A. About.

Q. There is a great deal of smoke goes through that rigging up there, isn’t there?

A. There is a certain amount, yes, at times, when

(Testimony of E. Shorenson.)

the wind is right ahead.

Q. And sparks?      A. Not very many sparks.

Q. But some?      A. Sometimes.

Q. What effect does it have on the seizins; it burns them, does it not?

A. The seizings, yes, sometimes; it will take a long time before you will burn a seizing with smoke.

Q. It all depends on how many sparks there are?

A. Very few sparks go through there.

Q. The effect on the iron is just like the effect of smoke on iron, that is to say, there is a certain amount of moisture and rust results?

A. Well, if you left it up there long enough it might.

Q. It has that effect?      A. Some effect, yes.

Q. Slight?      A. Yes.

Q. Did you order them to get the sail down when you came aft?      A. To get it down? [149]

Q. Yes.      A. No.

Q. Wasn't it up when you came aft?      A. Yes.

Q. When Hokanson had fallen?

A. It was up there.

Q. Wasn't the sail down when Hokanson had fallen?      A. No, it was not down altogether.

Q. How far down was it?

A. Well, I did not pay any special attention to that, at the time.

Q. It was pretty well down, was it not?

Mr. GRIFFITHS.—He said he did not notice. I don't want you to lead him into any statements by

(Testimony of E. Shorensen.)

your testimony; he said he did not notice the condition of the sail.

Mr. THACHER.—He said he did not notice it particularly.

Mr. GRIFFITHS.—He said he did not notice particularly, therefore, how is he going to say how far down that sail was. He was taking care of the man.

Mr. THACHER.—He might have some idea about it.

A. No, I could not say; I was busy with Hokanson, getting him into social hall.

Q. You don't know anything about the sail, then?

A. No.

Q. What its position was, at all?

A. No, not at the time.

Q. Or afterwards?

A. No. The sail was taken down that day.

Q. You say there was lots of cordage, rope?

A. Yes.

Q. You were fixed up the way you ordinarily are going up there? A. Yes.

Q. No more and no less? A. Just the same.

Q. Had you been on the "Senator" before this?

A. No, this was my first time.

Q. This was your first trip. How long did you stay on the "Senator"? A. After the accident?

Q. Yes. A. A couple of months. [150]

Q. Have you been on her since? A. Yes.

Q. On and off? A. Yes.

Q. How soon did you get the trysail back again

(Testimony of E. Shorenson.)

after it was taken down that time?

A. Got it back, you say?

Q. I mean to say, wasn't it put up some months afterwards? A. Some months afterwards, yes.

Q. What had been done to it in the meantime?

A. It had been placed in the sail locker.

Q. Do you know what changes had been made?

A. Some new canvas put in it.

Q. You don't know exactly what had been done to it? A. No, I don't know exactly.

Q. How about these blocks; weren't these blocks shifted between the time the sail was taken down and put up? A. The blocks shifted?

Q. Yes, these blocks here (pointing)? A. No.

Q. How do you know; are you sure?

A. Sure; they are in a fixed position always.

Q. But you don't know what was done to the sail?

A. No.

Q. When you say that the sail goes up to a certain point, you mean that as you noticed the sail as it was furled up, that it was generally furled up to a certain point, don't you?

A. Yes, I know it goes to a certain point.

Q. Haven't you ever seen it any lower than that point? A. Not when it is made fast, no.

Q. But this was the sail which had been renovated and made over,—it had been cut over? A. No.

Q. Are you sure? A. Sure.

Q. You are sure that it was not cut over?

A. Yes; there was no new roping in it; if there

(Testimony of E. Shorenson.)

was new roping, it would be the same length. [151]

Q. That is the way you make up your mind as to what was done? A. Yes.

Q. But you don't know?

A. Well, I know there was not new roping put in it; the sail was the same size.

Q. Do you know anything about how the sail was lowered after Hokanson was hurt?

A. No, I don't.

Q. Who are you employed by now?

A. The Pacific Coast Steamship Company.

Mr. GRIFFITHS.—If your Honor please, I have no more witnesses to offer, but I wish at this time to make an amendment in our answer on page 7, and in the second affirmative defense, in line 11, by striking out the words “with one hand only”; of course it is a well-settled rule in admiralty that a mere technical variance is not of any material importance; in any event, it is simply to make the situation clear; I wish to strike out those words.

The COURT.—“With one hand only”?

Mr. GRIFFITHS.—Yes. I am perfectly willing to admit that he had hold of the shrouds with two hands.

The COURT.—Any objection to that?

Mr. THACHER.—No.

**Testimony of Axel Hokanson, for Libelant (Recalled in Rebuttal).**

AXEL HOKANSON, the libelant; recalled in rebuttal.



(Testimony of Axel Hokanson.)

Mr. THACHER.—I simply want to ask you one question: How old were you at the time of the accident? A. 58.

Q. What did your family consist of at the time of the accident? How many were there in your family?

A. There is me and my wife and two children.

Q. The children, are they both under 21 or over 21?

A. One is 18 and one is 21. [152]

Q. Now, or then? A. Now.

(Thereupon the case was submitted on briefs, 10, 10 and 5.)

[Endorsed]: Filed Oct. 15, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk. [153]

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*In the District Court of the United States, in and for the Northern District of California, First Division.*

IN ADMIRALTY —No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corp. et al.,  
Respondents.

**(Opinion and Order to Enter a Decree in Favor of  
Libelant for the Sum of \$6,500.)**

THOMAS A. THACHER, Esq., and DENMAN  
and ARNOLD, Proctors for Libelant.

McCUTCHEN, OLNEY & WILLARD, Proc-  
tors for Respondents.

Libelant was injured by falling from the shrouds of the steamer "Senator" on December 10th, 1913. He claims that the cause of his fall was the breaking of a ratline on which one of his feet was resting, while with the other he was endeavoring to kick loose a sail which they were trying to lower. Respondents claim that the fall was due to his own carelessness in swinging out from the shrouds with both feet to jump on the sail, which gave way under him, thus breaking his handhold on the shrouds and precipitating him to the deck. At the trial libelant was permitted to introduce testimony to the effect that immediately after his fall, and while still lying on the deck he stated that the accident was due to the breaking of a ratline under his foot and that everything was rotten up there. This testimony was admitted, not for the purpose of corroborating the testimony of libelant given at the trial, but solely to show that the ship, through the boatswain, had immediate notice that libelant attributed the accident to fault in the rigging, so that the condition of the rigging might have been thoroughly investigated. The only witness to the condition of the rigging pro-  
[154] duced by respondents was the boatswain

who, as claimed by libelant, ordered him aloft. It is not very material whether or no the boatswain did order libelant to go aloft and loosen the sail, except that the boatswain's denial of the fact in the face of the testimony of all the other witnesses present at the time tends to throw discredit upon the other and more material portions of his testimony as to the condition in which he found the rigging when he went aloft shortly after the accident. Libelant was an experienced seaman, and a very candid witness; and I accept his statement as to how the accident occurred. The ship was bound to furnish him with a safe place in which to work. A ratline which gives way under the weight of a seaman who is performing a duty which requires it to support him is not such a safe place.

A decree will be entered in favor of libelant, and because of the serious and permanent nature of his injuries, and the extent of his suffering, such decree will be for the sum of \$6,500.

June 5th, 1916.

M. T. DOOLING,  
Judge.

[Endorsed]: Filed Jun. 5, 1916. W. B. Maling,  
Clerk. By T. L. Baldwin, Deputy Clerk. [155]

*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

PACIFIC COAST COMPANY, a Corporation, and  
PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Final Decree as to Pacific Coast Steamship Company.**

Issue being joined herein, and this course coming on duly to be heard upon the pleadings and proofs adduced by the respective parties, the libelant, Axel Hokanson, being represented by his proctors, Thomas A. Thacher and Messrs. Denman and Arnold, and the respondents, Pacific Coast Company, a corporation, and Pacific Coast Steamship Company, a corporation, being represented by their proctors, Ira A. Campbell and Messrs. McCutchen, Olney & Willard;

And it appearing *inter alia* to the Court that libelant was an experienced sailor and was employed as a sailor by the Pacific Coast Steamship Company, and was injured on December 10, 1913, while in the proper discharge of his duties as said sailor in said employ, on the steamship "Senator," a ship oper-

ated and controlled by said Pacific Coast Steamship Company, because of the unseaworthiness of said steamship "Senator" from the beginning of the voyage on which libelant was injured to the time of said injury, and because of the failure of Pacific Coast Steamship Company to supply and keep in order from the beginning of the voyage on which libelant [156] was injured to the time of said injury, the proper appliances appurtenant to the said steamship "Senator,"

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that said libelant, Axel Hokanson, recover against said Pacific Coast Steamship Company the sum of Six Thousand, Five Hundred Dollars (6,500), together with his costs to be taxed and interest from the date of this decree upon said sum of Six Thousand, Five Hundred Dollars (\$6,500) at the rate of seven (7) per cent per annum until said recovery is paid; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, unless an appeal be taken from this decree within the time limited by the rules and practice of this Court, the stipulators for costs on the part of the respondent Pacific Coast Steamship Company shall cause the engagements of its stipulations to be performed, or show cause, within four (4) days after the expiration of the time to appeal, or on the first day of jurisdiction thereafter.

Dated June 30th, 1916.

M. T. DOOLING,  
Judge.



[Endorsed]: Filed Jun. 30, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [157]

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*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

THE PACIFIC COAST COMPANY, a Corporation, and PACIFIC COAST STEAMSHIP COMPANY, a Corporation,

Respondents.

**Notice of Appeal.**

To Thomas A. Thacher, Esquire, and to Messers. Denman and Arnold, Proctors for Libelant; and to W. B. Maling, Esquire, Clerk of the Above-entitled Court:

Please take notice that Pacific Coast Steamship Company, a corporation, one of the respondents above named hereby appeals from the final decree made and entered herein as to it, the said Pacific Coast Steamship Company, on the 30th day of June, 1916, and from each and every part of said decree, to the next United States Circuit Court of Appeals for the Ninth Circuit to be holden in and for said circuit at the City and County of San Francisco, State of California.

Dated San Francisco, California, July 10, 1916.

IRA A. CAMPBELL,  
McCUTCHEN, OLNEY & WILLARD,  
Proctors for said Respondent and Appellant, Pacific  
Coast Steamship Company.

Service of the within Notice of Appeal and receipt  
of a copy is hereby admitted this 10th day of July,  
1916.

THOMAS A. THACHER.  
DENMAN & ARNOLD.

[Endorsed]: Filed Jul. 10, 1916. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [158]

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*In the United States District Court for the North-  
ern District of California, First Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

THE PACIFIC COAST COMPANY, a Corporation,  
and PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Assignment of Errors.**

Comes now Pacific Coast Steamship Company,  
respondent and appellant herein, and says that in the  
record, opinion and decision in this case and in the  
final decree as to it, the said Pacific Coast Steamship  
Company, dated June 30, 1916, there is manifest and

material error, and said appellant now makes, files and presents the following assignment of errors on which it relies, to wit:

(1) That the District Court erred in entering the final decree herein as to Pacific Coast Steamship Company, dated June 30, 1916, ordering, adjudging and decreeing that said libelant, Axel Hokanson, recover against said Pacific Coast Steamship Company the sum of six thousand five hundred (6,500) dollars, together with costs to be taxed, and interest from the date of this decree upon said sum of six thousand five hundred (6,500) dollars at the rate of seven (7) per cent [159] per annum until said recovery is paid;

(2) That the District Court erred in not holding and deciding that this respondent (appellant) Pacific Coast Steamship Company, was entitled, under the pleadings and evidence adduced, to a decree of dismissal herein, with its costs, as prayed for in its answer filed herein;

(3) That the damages awarded by the District Court to libelant by the aforesaid decree as to Pacific Coast Steamship Company, dated June 30, 1916, to wit, the sum of six thousand five hundred (6,500) dollars, were excessive;

(4) That the District Court erred in holding that libelant's (appellee's) fall was due to the breaking of a ratline beneath his foot;

(5) That the District Court erred in holding that the ratline gave way beneath libelant's (appellee's) foot, or at all;

(6) That the District Court erred in not holding that libelant's (appellee's) fall was due to his own carelessness in swinging out from the shrouds with both feet to jump on the mainsail;

(7) That the District Court erred in holding that respondent (appellant) was bound to furnish libelant (appellee) with a safe place in which to work, and in not holding that the only duty of respondent (appellant) in the premises was to exercise due diligence to provide libelant (appellee) with a safe place in which to work;

(8) That the District Court erred in not holding and deciding that said steamer "Senator" was at the commencement of [160] the voyage in question fully and properly manned by competent officers and crew, and was fully equipped and supplied with all of the extra gear, ropes, cordage, rods, parts, supplies and equipment necessary to maintain her in an efficient and seaworthy condition, and that, if the sails or shrouds or ratlines of said vessel were not kept and maintained in a sound and seaworthy condition, such condition was caused by the neglect of the officers and crew of said vessel to use the gear, ropes, cordage, rods, parts, supplies and equipment on board of said vessel, with which said sail, said shrouds and said ratlines could have been maintained in an efficient and seaworthy state.

In order that the foregoing assignment of errors may be and appear of record, said appellant, Pacific Coast Steamship Company, files and presents the same, and prays that such disposition be made there-

of as in accordance with the law and statutes of the United States in such cases made and provided; and said appellant prays that the aforesaid decree as to it, said Pacific Coast Steamship Company, dated June 30, 1916, be set aside and held for naught, and that the court below be instructed to enter a decree of dismissal in its favor, and for its costs incurred upon this appeal and in the court below, and that, in the event the aforesaid decree be not set aside, the damages therein be reduced, and that appellant may have such other and further relief as shall be deemed meet and equitable in the premises.

Dated August 16th, 1916.

IRA A. CAMPBELL,

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondent and Appellant, Pacific  
Coast Steamship Company. [161]

Service of the within Assignment of Errors and receipt of a copy is hereby admitted this 21st day of August, 1916.

T. A. THACHER,

DENMAN & ARNOLD,

Proctors for Libelant.

[Endorsed]: Filed Aug. 19, 1916. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [162]



*In the District Court of the United States, for the  
Northern District of California, First Division.*

IN ADMIRALTY—No. 15,773.

AXEL HOKANSON,

Libelant,

vs.

THE PACIFIC COAST COMPANY, a Corporation,  
and PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Stipulation (And Order Re Exhibits).**

IT IS HEREBY STIPULATED AND AGREED  
by and between the parties hereto that all of the  
exhibits introduced in the depositions taken before  
the Commissioner in the above-entitled case, and  
the exhibits introduced at the hearing before the  
above-entitled court may be sent up to the United  
States Circuit Court of Appeals for the Ninth Cir-  
cuit as original exhibits for the apostles on appeal  
and need not be printed in said court of appeals.

THOMAS A. THACHER,

DENMAN & ARNOLD,

Proctors for Libelant.

IRA A. CAMPBELL,

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondents.

It is so ordered.

WM. W. MORROW,

District Judge.

[Endorsed]: Filed Aug. 9, 1916. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [163]

**Certificate of Clerk U. S. District Court to Apostles  
on Appeal.**

I, W. B. Maling Clerk of the District Court of the United States, for the Northern District of California, do hereby certify the foregoing 163 pages, numbered from 1 to 163, inclusive, to contain a full, true and correct Transcript of certain records and proceedings, in the case of Axel Hokanson vs. Pacific Coast Company, a Corp., et al., No. 15,773, as the same now remain on file and of record in this office; said Transcript having been prepared pursuant to and in accordance with "Praeceptum for Apostles on Appeal" (copy of which is embodied in this transcript), and the instructions of the attorneys for respondents and appellants.

I further certify that the cost for preparing and certifying the foregoing Apostles on Appeal is the sum of seventy-six Dollars and Sixty Cents (\$76.60), and that the same has been paid to me by the attorneys for the appellants herein.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said District Court this 1st day of Sept., A. D. 1916.

[Seal]

W. B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled  
9/1/16. C. W. C.] [164]

[Endorsed]: No. 2857. United States Circuit Court of Appeals for the Ninth Circuit. Pacific Coast Steamship Company, a Corporation, Appellant, vs. Axel Hokanson, Appellee, Apostles on Appeal. Upon Appeal from the United States District Court for the Northern District of California, First Division.

Filed September 1, 1916.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.

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*In the United States Circuit Court of Appeals for the  
Ninth Circuit.*

No. —.

AXEL HOKANSON,

Libelant,

vs.

THE PACIFIC COAST COMPANY, a Corporation,  
and PACIFIC COAST STEAMSHIP COM-  
PANY, a Corporation,

Respondents.

**Stipulation and Order Extending Time for Docketing  
Cause on Appeal.**

IT IS HEREBY STIPULATED AND AGREED  
by and between the respective parties hereto that the  
time for printing the record and filing and docketing  
ing this cause on appeal in the United States Circuit  
Court of Appeals for the Ninth Circuit may be, and

the same is hereby, extended to and including the first day of September, 1916, it being agreed said cause will be heard during the October, 1916, term.

Dated, San Francisco, California, August 5, 1916.

THOMAS THACHER,  
DENMAN & ARNOLD,  
Proctors for Libelants.

IRA A. CAMPBELL,  
McCUTCHEN, OLNEY & WILLARD,  
Proctors for Respondents.

It is so ordered by the court.

WM. W. MORROW,  
Circuit Judge.

Dated, August 5, 1916.

[Endorsed]: No. 2857. United States Circuit Court of Appeals for the Ninth Circuit. Alex Hokanson, Libelant, vs. The Pacific Coast Company, a Corporation, and Pacific Coast Steamship Company, a Corporation, Respondents. Stipulation and Order Extending Time for Docketing Cause on Appeal. Filed Aug. 5, 1916. F. D. Monckton, Clerk. Refiled Sep. 1, 1916. F. D. Monckton, Clerk.





